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Thursday
10th September, 1953

PARLIAMENTARY DEBATES

HOUSE OF THE PEOPLE

OFFICIAL REPORT

(Vol. iv contains no. 26-33)

(Part I—Questions and Answers)

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THE
PARLIAMENTARY DEBATES
(Part I—Questions and Answers)
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Thursday, 10th *September*, 1953.

The House met at a Quarter Past Eight of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

ORAL ANSWERS TO QUESTIONS.

MINOR IRRIGATION WORKS IN PUNJAB

***1181. Prof. D. C. Sharma:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) whether the Government of Punjab have submitted a list of minor irrigation projects in their State for the year 1953-54 to the Central Government; and

(b) if so, what action the Central Government have taken in the matter?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Yes.

(b) All the schemes which were eligible for financial assistance under the G.M.F. have been sanctioned.

Prof. D. C. Sharma: May I know, Sir, if while sanctioning these amounts, the Punjab Government makes any distinction between the so-called backward areas and the so-called forward areas?

Dr. P. S. Deshmukh: We presume, Sir, that all the relevant considerations are always borne in mind by the State Governments. We do not propose to go into other considerations and the allocations. We take the recommendations as they stand.

Shri Bansal: Is the hon. Minister aware that he is absolutely wrong in his presumption and that a number of backward areas are not being given any treatment whatsoever?

Dr. P. S. Deshmukh: I do not see why my friend differs from my statement. We do not go into the backwardness or otherwise. It is for the State Government to take into consideration the various needs of the different areas in the State, and we take the schemes as they come to us, and then sanction them.

Shri S. N. Das: May I know whether the State Governments are required to submit their schemes of minor irrigation, or was it a special case for the Punjab?

Dr. P. S. Deshmukh: Every State submits its schemes.

Shrimati A. Kale: May I know whether the Government is aware that injustice has been done to certain areas of Madhya Pradesh with regard to minor irrigation works, and if so, whether the Centre has any control over the States or not?

Mr. Deputy-Speaker: Does it relate to Punjab?

Shrimati A. Kale: The hon. Minister said that they only take into account the relevant considerations. I find that in the minor irrigation works in Madhya Pradesh, there has been injustice.

Mr. Deputy-Speaker: Hon. Member is aware that when the question relates to the application of general principles to a particular State, I am not going to allow details to be asked for other States.

Kumari Annie Mascarene: May I know, Sir, whether any of these minor irrigation works come within the purview of the community projects?

Mr. Deputy-Speaker: Where?

Kumari Annie Mascarene: In Punjab.

Dr. P. S. Deshmukh: I cannot say. They could come. There is no prohibition.

Shri C. D. Pande: The hon. Minister has just said that all the schemes, even minor irrigation schemes, have to be submitted to the Central Government. Am I to understand that even where the States have to make their own resources available, they have to submit the schemes to the Central Government?

Dr. P. S. Deshmukh: No, Sir. These are all mostly cases of loans which we give. In very few instances we give any subsidy. There are various items under the grow more food scheme and rules have been framed. So far as all these schemes are concerned, they are mostly through loans from Central Government for minor irrigation in the States.

Shri Bansal: May I know if the Government of India will call for any statement from the Punjab Government about the schemes submitted by them for the backward districts and the action taken by the Punjab Government in regard to the same?

Dr. P. S. Deshmukh: I am afraid all these complaints must be addressed to the Punjab Government, and in the case of Madhya Pradesh—as referred to by Shrimati Kale—to the Government of Madhya Pradesh.

Prof. D. C. Sharma: If the application for minor irrigation projects can come only through the State Government, cannot the Members of this House also have a say in this matter?

Dr. P. S. Deshmukh: I do not think so. The Members of this House may criticize the action taken by either the State Governments or the Central Government, but so far as we are concerned, we cannot go into their choice of any scheme and allege discrimination.

DOUBLE LINE BETWEEN ANAND AND BARODA STATIONS

*1182. **Shri Dabhi:** Will the Minister of Railways be pleased to state whether Government propose to construct a double railway line between Anand and Baroda Stations?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): The proposal is still under examination.

Shri Dabhi: May I know when the consideration is likely to be completed?

Shri Shahnawaz Khan: It is difficult to say when we will be able to take a final decision on the matter, but this matter is being reviewed especially in view of the recent development of Kandla port and we hope that a lot of traffic which is now being run on this line will be diverted towards Kandla.

Shri Dabhi: May I know whether it is a fact that except for this 22 miles between Anand and Baroda, the whole 306 miles between Ahmedabad and Baroda is a double line?

Mr. Deputy-Speaker: That is the information given by the hon. Member. The hon. Member knows it. I am not going to allow that to be asked in the House. Hon. Members must give arguments for linking up this small gap by saying that the rest of the route—270 miles or so—is all double line. It is not a question for answer.

Shri Dabhi: Sir, another question....

Mr. Deputy-Speaker: Nothing more. I must choose between small questions of relative importance. I won't allow more questions so far as the 22 miles are concerned.

Shri Dabhi: I want another question to be put.

Mr. Deputy-Speaker: No; hon. Members must pick and choose. Next question.

RAILWAY STORES ENQUIRY COMMITTEE

***1183. Shri Tulsidas:** Will the Minister of Railways be pleased to state the action taken by Government for the implementation of the recommendations made by the Railways Stores Enquiry Committee in order (i) to rationalise the procedure for stores purchase and (ii) to stop pilferage and wastage in fuel?

The Deputy Minister of Railways and Transport (Shri Alagesan): (i) It has not been possible to implement this recommendation as no final agreement has been reached with the Ministry of Works, Housing and Supply who are at present responsible for purchasing the bulk of railway stores.

(ii) No recommendations were made by the Railway Stores Enquiry Committee on this subject.

EFFICIENCY BUREAU

***1184. Shri Tulsidas:** Will the Minister of Railways be pleased to state:

(a) whether the Efficiency Bureau at the Centre, as mentioned in the White Paper on Indian Railways published in 1952 has been formed;

(b) if so, the work it has done in improving the efficiency and effecting economy in the Railway administration; and

(c) if not when Government propose to take action in the matter?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) to (c). As the strength and composition of the Efficiency Bureau and how best it could be used are matters still under detailed examination, the Bureau has not yet started functioning. Its formation is, however being expedited.

Kumari Annie Mascarene: May I know, Sir, since considering this scheme, how many accidents in the railways have occurred?

Shri Alagesan: I do not think it arises from this question.

Mr. Deputy-Speaker: "Improving the efficiency and effecting economy in the Railway administration" is the subject.

Kumari Annie Mascarene: I mean deficiency, Sir.

Mr. Deputy-Speaker: The hon. Minister has not got the information. Next question.

SAFDARJANG AIR PORT

***1185. Shri Gidwani:** (a) Will the Minister of Communications be pleased to state whether Government propose to construct any new Air Port in place of the Safdarjang Air Port near Delhi?

(b) If so, (i) what will be its cost and (ii) where will it be located?

The Minister of Communications (Shri Jagjivan Ram): (a) No. Sir. It is possible, however, that in case Palam is not available for development as an International Airport, a new aerodrome may have to be constructed in Delhi to serve the needs of Civil Aviation.

(b) These details will be worked out in due course if and when it is decided to construct a new aerodrome.

PALAM AIR PORT

***1186. Shri Gidwani:** (a) Will the Minister of Communications be pleased to state whether Government have considered any proposal for developing the Palam Air Port in accordance with international standards?

(b) If so, what will be the additional cost for doing so?

The Minister of Communications (Shri Jagjivan Ram): (a) Yes.

(b) About Rs. 1 crore in case it is available for development as a Civil International Airport.

Shri Gidwani: May I know whether the Palam Air Port is under the dual control of the Ministry of Defence and the Ministry of Communications?

Shri Jagjivan Ram: It is a fact that it is being utilized for joint purposes.

Shri Gidwani: Is it due to financial difficulties that the required improvements are not being made?

Shri Jagjivan Ram: Not exactly due to financial difficulties. It is at present under the control of the Air Forces, but it is being utilized as an International Airport and we have provided all the minimum facilities required as an International Airport.

Kumari Annie Mascarene: May I know, Sir, what are the bases of international standards and how we are behind them?

Mr. Deputy-Speaker: Shall we go into each item now: it is admitted that it is behind international standards.

सेठ गोविन्द दास : अभी माननीय मंत्री जी ने यह कहा कि पालम ऐयरपोर्ट को ठीक करने के लिए कोई एक करोड़ रुपये का खर्च होगा, क्या अभी बिना उस के काम नहीं चल रहा है, इस समय की आर्थिक स्थिति में एक करोड़ को जल्दी ख़र्च करने से क्या लाभ होगा ?

श्री जगजीवन राम : बहुत से कांम ऐसे होते ह जिन को आर्थिक स्थिति खराब होने पर भी करना ही पड़ता हैं।

Mr. Deputy-Speaker: The hon. Minister may reply for the rest of the House also: he need not necessarily reply in Hindi.

सेठ गोविन्द दास : कई लोग अंग्रेजी भी नहीं समझते हैं ।

Mr. Deputy-Speaker: अच्छा दोनों में बोलिये ।

प्रधान मंत्री (श्री जवाहरलाल नेहरु) : लैकिन जो सवाल नहीं समझे, वह जवाब कैसे समझेंगे ।

Mr. Deputy-Speaker: In any language he likes.

श्री जगजीवन राम : इंटरनेशनल स्टेन्डर्ड के ऐयरपोर्ट में कुछ सुविधाएं देना जरूरी रहता है, कम से कम जो सुविधा होनी चाहिए, आज पालम ऐयरपोर्ट में उपलब्ध है, लेकिन जिन जिन उपादानों की और भी आवश्यकता होती है, उन का प्रबन्ध करना आवश्यक होता है और उन सुविधाओं को उपलब्ध करने के लिए खर्च करना पड़ सकता है ।

Shri Gidwani: May I know whether Government intends to arrange for night sleeping at Palam Air Port because for the night services it is difficult for the passengers to go at late hours or in the early hours of the morning—just like waiting rooms in railway stations?

Mr. Deputy-Speaker: Is it one of the international standards?

Shri Jagjivan Ram: We have provided reasonable facilities for the passengers there. We have got a very good canteen, lounge and other things. Some of the passengers may retire there for a few hours if they so desire.

DISPOSAL OF WHEAT STOCKS IN HYDERABAD

***1187. Shri Gidwani:** (a) Will the Minister of **Food and Agriculture** be pleased to state whether it is a fact that the Central Government had turned down the request of the Hyderabad State Government to sell the stock of wheat lying with them at a reduced price as the Government Entomologist had warned the State Government that it would be unfit for consumption in six months' time?

(b) Had the Hyderabad State Government approached the Central Government again pointing out that the State would be put to a huge loss of money, if the wheat were not disposed of in time?

(c) Have Government considered the request of the Hyderabad State Government?

The Deputy Minister of Food and Agriculture (Shri M. V. Krishnappa): (a) No, Sir. In fact the Government of Hyderabad were advised to dispose of the wheat locally even by reducing the issue price for the consumer. Their request for the issue of wheat to the Roller Flour Mills in Hyderabad at a reduced rate for manufacture of 'fines' was, however, not agreed to, since that would have adversely affected the interest of other roller flour mills in the country, who were getting supplies of wheat at a fixed price.

(b) and (c). It has been decided, in consultation with the Government of Hyderabad, that the wheat in question should be sold to the roller flour mills in the State as well as outside the State for milling it into whole-meal atta and not 'fines', *i.e.* maida, suji, etc.

Shri Gidwani: Is it a fact that the Hyderabad Government had represented to the Government of India that they would lose Rs. 15 lakhs which they were not in a position to bear and, therefore, they wanted to dispose of the stock?

Shri M. V. Krishnappa: It is a fact that they made a representation. But in regard to the amount, it is not the exact amount stated by the hon. Member. They said that they must be allowed to supply this wheat to the roller flour mills at reduced prices to which we could not agree, because we are supplying it to all the roller flour mills in India at a fixed price.

Shri Punnoose: Is it a fact, as has appeared in the Evening News of the 19th June that the Government Entomologist had recommended that if the wheat were sold immediately there would be a loss of Rs. 10 lakhs, but if the sale is postponed for six months it would entail a loss of Rs. 15 lakhs.

Shri M. V. Krishnappa: Hyderabad had a stock of 9,000 tons of wheat. The entomologist said that if it were not disposed of within six months it would deteriorate and Government would have to incur some loss. The exact amount was not stated.

Shri Gidwani: Was it disposed of in six months as suggested by entomologist?

Shri M. V. Krishnappa: They will be disposed of very early. We have asked Hyderabad to call for tenders from rolling mills in India. They have called for tenders and the last date for receipt of tenders is 30th August. They have received a number of tenders. Acceptance of tenders is under their consideration.

INTERNATIONAL SUGAR CONFERENCE

***1188. Shri Jhulan Sinha:** Will the Minister of **Food and Agriculture** be pleased to state whether India has joined the International conference on sugar production and marketing being held during the current year?

The Minister of Agriculture (Dr. P. S. Deshmukh): A statement is laid on the Table of the House. [*See* Appendix VI, annexure No. 1.]

Shri Jhulan Sinha: In view of the decision of the Government of India not to be a party to the present International Sugar Agreement, will this country be subjected to any disadvantage in exporting or importing sugar, as has been the experience of this country in the last few years?

Dr. P. S. Deshmukh: No, Sir.

Shrimati Tarkeshwari Sinha: Is it under the International Sugar agreement that we import sugar from certain countries, or is there any bilateral agreement between the Government of India and any country from which we import sugar?

Dr. P. S. Deshmukh: Sugar is imported through negotiations as between Government and Government. There is no reference to International Sugar Agreement.

Shri V. P. Nayar: From the statement laid on the Table of the House we find that production and consumption varies widely from year to year. Could we know, Sir, what was the *per capita* consumption of sugar for 1950-51 and 1951-52, so that we will be able to know whether it varies widely?

Dr. P. S. Deshmukh: I am afraid I have not got the figures now.

Shri Punnoose: Did that International Conference fix any floor prices or ceiling prices for sugar?

Dr. P. S. Deshmukh: Not that I know of. In any case it would not affect us.

U. S. CIVIL AERONAUTICS ADMINISTRATION

***1189. Shri Radha Raman:** (a) Will the Minister of **Communications** be pleased to state how many Indian officials sent by his Ministry received training at the Research Centre of the U.S. Civil Aeronautics Administration during the year 1952?

(b) Were they all sent at Government expense?

(c) Have they been taken in service in India after their training?

The Minister of Communications (Shri Jagjivan Ram): (a) Four officers of the Civil Aviation Department received training by way of 'study and observation' for a few days each at the Technical Development and Evaluation Centre of the U.S. Civil Aeronautics Administration at Indianopolis.

(b) They were sent under the U.S.A's. Point Four programme according to which the U.S. Government met all expenses in respect of passages, living expenses, travelling expenses in the U.S.A., tuition fees, cost of technical books and publications etc.

(c) They were all officers of the Civil Aviation Department and were sent on deputation for training; on return they resumed their duties in the Department.

Shri Radha Raman: May I know, Sir, what was the duration of their training in U.S.A.?

Shri Jagjivan Ram: Six to nine months.

Shri Radha Raman: Will the hon. Minister be pleased to say what was the total expenditure incurred on these four officers?

Shri Jagjivan Ram: As I have said, all the expenses were met by the U.S. Government. What we spent was a very small amount, such as on medical examination, etc., of these officers.

Shri Nanadas: May I know whether any of these officers belonged to Scheduled Castes?

Shri Jagjivan Ram: I am afraid, No, Sir.

Sardar Hukam Singh: May I know whether these officers, on return from their training, were entrusted with duties for which they got the training, or they were put on different duties?

Shri Jagjivan Ram: In most cases we try to utilise those officers in those branches of civil aviation where we can take advantage of their training most. But in a few cases, due to administrative reasons, it may not be possible to put all the officers in that line of civil aviation.

Sardar Hukam Singh: But were they actually put on those duties for which they were trained?

Shri Jagjivan Ram: All the four have been placed on duties where we will get the maximum utilisation of their training.

श्री भक्त दर्शन : अभी माननीय मंत्री महोदय ने बतलाया कि चार अफसरों को ट्रेनिंग दी गयी, में जानना चाहता हूं कि उन में से किसी ने हेलीकौप्टर्स के बारे में शिक्षा प्राप्त की है और यदि प्राप्त की है तो उस का क्या उपयोग किया जा रहा है ?

श्री जगजीवन राम : किसी ने हेलीकौप्टर के बारे में ट्रेनिंग नहीं प्राप्त की है ।

RESEARCHES ON INFLUENZA

***1190. Shri Radha Raman:** (a) Will the Minister of **Health** be pleased to state whether it is a fact that some researches on influenza were carried out in the Pasteur Institute at Coonoor, set up by the World Health Organization?

(b) If so, what are its findings?

(c) What are the other researches lately done in that Institute?

The Deputy Minister of Health (Shrimati Chandrasekhar): (a) The influenza centre at the Pasteur Institute, Coonoor, was established by the Government of India in 1950 on the request of the World Health Organisation for international collaboration in the field of influenza.

(b) A statement is laid on the Table of the House. [*See* Appendix VI, annexure No. 2.]

(c) Researches are also in progress on the following subjects: Rabies, drugs acting against snake venoms, incidence of Q fever in India, Cholera, Comparative study of serological methods for the diagnosis of syphilis, tropical eosinophilia and intestinal fusospirochaetosis.

Shri Radha Raman: May I know, Sir, what time is proposed to be taken to give effect to the proposal of a pilot plant for vaccine production?

Shrimati Chandrasekhar: That is under consideration and we cannot give a definite date now.

Kumari Annie Mascarene: May I know, Sir, whether the W.H.O. has made any contribution for the establishment of this plant at the Institute?

Shrimati Chandrasekhar: They have supplied us valuable equipment worth about 4,500 U.S. dollars.

Shri V. P. Nayar: May I know, Sir, whether in the Pasteur Institute any research has been directed specifically towards finding out whether influenza leads to infections of the type of pneumonia?

Shrimati Chandrasekhar: I have no information to answer that question. If the hon. Member puts a separate question, it can be answered.

Shri Muniswamy: May I know whether there are any foreign experts working in this Institute?

Shrimati Chandrasekhar: Not that I know of.

Shri N. M. Lingam: In view of the fact that the influenza virus, detected on research in this Institute, is of the same strain as that in the U.K., may I know whether Government have taken steps to manufacture anti-influenza virus vaccines and serum?

Shrimati Chandrasekhar: Researches in that line are being carried on now.

सेठ अचल सिह : क्या माननीय मंत्राणी महोदया बतलाने की कृपा करेंगी कि कालेरा में अब तक क्या कामयाबी प्राप्त हुई ?

Shrimati Chandrasekhar: Investigations are carried on on the nutritional requirements of vibrio choleræ and its capacity to produce certain enzymes.

Shri V. P. Nayar: May I know whether during the researches in this Institute any strains of influenza virus other than those already known, A and B, have been found?

Shrimati Chandrasekhar: In the beginning there was only one strain isolated, but from 1950—52 onwards there were 11 strains that were identified.

PAYMENT OF OVERTIME FOR EXTRA WORK

***1191. Shri Frank Anthony:** (a) Will the Minister of **Railways** be pleased to state whether it is a fact that staff on the Southern Railway, such as Power Controllers, A.L.Fs and A.F.O. Reserves, are being required to work 12 hours a day in spite of the prescribed 8 hours?

(b) Is it a fact that they are not paid any overtime for this extra work?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) The Power Controllers, Assistant Loco Foremen and Assistant Foremen Reserves being classified as supervisory staff do not have any prescribed hours of duty under the Hours of Employment Regulations. On the Southern Railway some of these staff work to a routine of 12 hours duty followed immediately by 24 hours rest.

(b) Yes, Sir.

Shri Frank Anthony: Is Government considering to give some kind of relief or more reasonable hours of duty to the supervisory staff?

Shri Alagesan: As I said, this practice obtains in the Southern Railway and at present they are having a spell of 12 hours work, immediately followed by 24 hours rest. In a week it comes to 4 days off. No complaints have so far been received, but if it is the desire of the staff that it should be changed to 8 hours duty, it can be considered.

Shri S. C. Samanta: May I know whether it is in the knowledge of the Ministry of Railways that due to the following of this rule, in the case of firemen and engine drivers, when they finish their duty on the way as soon as their time is up, it takes some time for the others to report for duty and so the train is late and Government has to undergo some additional expenditure on this account?

Shri Alagesan: I don't think any such thing has come to our knowledge.

Shri S. C. Samanta: Will the hon. Minister enquire into what happened between Kharagpur and Nagpur?

Shri Alagesan: Yes, Sir.

Shri P. C. Bose: May I know, Sir, what amount of rest is given after 12 hours work?

Shri Alagesan: Immediately after the 12 hours' work, they are given 24 hours off.

Shri Feroze Gandhi: About a month ago an engine was attached to an express train and the train was 2 hours late at Lucknow. May I know whether in such cases also overtime is paid?

Shri Alagesan: These staff, as I said, have been classified as supervisory staff and, as such, they are not entitled to overtime. However, I can't say anything about that particular instance because I have no knowledge of it.

Shri Feroze Gandhi: Your Minister has some knowledge of it, it seems.

The Minister of Railways and Transport (Shri L. B. Shastri): The question of overtime does not arise in such cases.

W. G. ENGINES

***1192. Shri Frank Anthony:** Will the Minister of **Railways** be pleased to state:

(a) whether the W.G. engines, built at Chittaranjan Workshops, had to be withdrawn from the Southern Railway temporarily;

(b) whether this withdrawal of W.G. engines was due to cylinder cracks or some other defect;

(c) what these defects were due to; and

(d) the number of engines withdrawn from service?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) Some had to be withdrawn.

(b) Due to cracked cylinders.

(c) The defect was due to weakness in the design of these cylinders, which has since been remedied.

(d) Ten.

Shri Frank Anthony: What was the loss to Government as a result of these defective cylinders made by Chittaranjan Workshops?

Shri Alagesan: I can't give off-hand the loss, but I may tell the House that the question of compensation in so far as imported cylinders are concerned is under correspondence.

Kumari Annie Mascarene: May I know, Sir, what is the value of these cylinders which were cracked?

Shri Nambiar: Scrap value.

Shri Alagesan: The cylinders have been rectified and they have been put back in service and the engines are now working.

Shri Punnoose: May I know whether it was due to a defect in the original planning of the pattern or it was due to some defect in the working?

Shri Alagesan: It was due to a defect in the original design itself.

Shri Vittal Rao: May I know, Sir, whether the capacity to manufacture cylinders at Chittaranjan has since reached the stage where it will meet all our requirements?

Shri Alagesan: I can't say that we have established a capacity to meet all our requirements, but at present we are manufacturing cylinders.

Shri V. P. Nayar: May I know the number of cylinders cracked and whether Government have made any enquiries into the causes also?

Shri Alagesan: The matter was enquired into and the design was modified by the Central Standards Office. 30 locomotives had to be withdrawn so far, of which 11 have already been repaired and put back in service. The rest are under repair.

Shri V. B. Gandhi: May I know the proportion of these defective engines in relation to the total number of engines in service?

Shri Alagesan: The number of engines in service runs into thousands. As I have said, only 30 had to be withdrawn so far.

Shri V. B. Gandhi: I mean engines produced at Chittaranjan?

Shri Alagesan: As far as the cylinders that were cracked, are concerned, some of them were imported ones, and some were cylinders manufactured in Chittaranjan. Because they were also manufactured to the original design, they had cracked.

QUALIFIED SCOUTERS IN RAILWAY SCHOOL

*1193. **Shri S. C. Samanta:** Will the Minister of **Railways** be pleased to state:

(a) whether arrangements already exist for the scouting in certain Railway Schools in India;

(b) whether Government propose to introduce the same in all Railway Schools;

(c) whether scouters with higher scouting and cubbing training are regarded as on a par with physical instructors and trained teachers; and

(d) if not, the reasons therefor?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) Yes, Sir.

(b) It depends on the policy of the State Government Education Departments as the Railway Schools have to follow the curricula prescribed by those Governments.

(c) and (d). No information is available.

Shri S. C. Samanta: May I know, Sir, whether the curricula of the State Governments are strictly followed or whether the Railway Administration add something to it?

Shri Shahnawaz Khan: We follow them very strictly.

Shri S. C. Samanta: Is it not a fact, Sir, that for the scouters to be regarded as at par with physical instructors applications have been made to the Ministry of Railways and whether those applications have been forwarded to or consulted with the State Governments?

Shri Shahnawaz Khan: Yes, Sir. The applications of students or staff who took special interest in this field were given encouragement by the Ministry of Education.

Shri Radha Raman: In how many schools under the Railways is this facility provided?

Shri Shahnawaz Khan: In ten schools out of 152.

Shri A. M. Thomas: May I know whether these scout teams are affiliated to the All-India organisation?

Shri Shahnawaz Khan: Yes, Sir.

Shri Punnoose: It was stated that the Railways encourage scouting. May I know what are the forms in which that encouragement is given?

Shri Shahnawaz Khan: In the normal way of encouragement.

Shri S. C. Samanta: Do the Railway Ministry contemplate to discourage this system of scouting as they are not able to provide the scouters with posts of physical instructors?

The Minister of Railways and Transport (Shri L. B. Shastri): Generally scouting is encouraged by us and by the State Governments. I am not actually aware of the practice prevalent in regard to the recruitment of physical instructors. But I should think there is no bar to recruiting men who are well versed in scouting and are otherwise fit.

TOBACCO RESEARCH STATION AT VEDASANDUR

*1194. **Shri Muniswamy:** (a) Will the Minister of **Food and Agriculture** be pleased to state how far the Tobacco Research Station at Vedasandur in Dindigul Taluq (Madras State) has progressed in its objects?

(b) What experiments are being carried on in this station and with what results?

(c) Is the station provided with all necessary requirements?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) and (b). A note is placed on the Table of the House. [*See* Appendix VI, annexure No. 3.]

(c) No.

Shri Muniswamy: May I know when this station was established?

Dr. P. S. Deshmukh: On the 12th July, 1948.

Shri Muniswamy: It is stated in the statement that for want of funds the station has not been fully developed. Has Government considered the question of sanctioning any additional funds to this institute?

Dr. P. S. Deshmukh: Yes, enlargement of the activities of the station is under consideration.

Shri V. P. Nayar: Could I know the number of research workers who are working on tobacco research in this Station?

Dr. P. S. Deshmukh: I want notice of the question.

Shri Heda: Particularly in respect of such recommendations which go against the economic interests of the farmers, what measures do Government propose to adopt to popularise those measures which are essential in the interests of national growth?

Dr. P. S. Deshmukh: Every possible step to encourage national growth is taken by Government.

Shri Dabhi: May I know whether any experiment is being carried on at this Station with regard to the manufacture of nicotine from tobacco dust and, if so, with what results?

Dr. P. S. Deshmukh: I would ask for notice of the question.

सेठ अचल सिह : क्या माननीय मंत्री महोदय बताने की कृपा करेंगे कि जो ऐक्सपैरीमेंट किये जा रहे हैं उन से यह मालूम हुआ है कि तम्बाकू पीने से सेहत को नुकसान होता है या फायदा ?

डा० पी० एस० देशमुख : इस स्टेशन में इस बात पर रिसर्च नहीं हो रही है ।

Shri Muniswamy: It is given in the statement that they have been only collecting data. May I know whether any practical research has started or not?

Dr. P. S. Deshmukh: It is mentioned in the statement itself that it has been established and that better results would be produced by planting lesser plants per acre, etc. All that is given in the statement itself. Besides, if the hon. Member wants, I can give him a full list of the problems tackled in the Station.

Shri Punnoose: Since the establishment of the institution may I know whether it has any practical results to its credit?

Dr. P. S. Deshmukh: I think on the whole the work done is satisfactory, although expansion is necessary.

PALM *Gur* TRAINING SCHOOL AT CUDDAL

*1195. **Shri Muniswamy:** (a) Will the Minister of **Food and Agriculture** be pleased to state whether any research work is being carried on by the Palm *Gur* Training School at Cuddalore in the Madras State?

(b) If so, what is the nature of research and with what results?

(c) Is the School at Cuddalore provided with all technical requirements and if so, how?

(d) How does the School at Cuddalore stand in comparison with the Palm *Gur* Training Schools in other States?

(e) Does this School deal with all the four varieties of palm which yield sugar?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Yes.

(b) A statement is placed on the Table of the House. [*See* Appendix VI, annexure No. 4.]

(c) Yes, a small research laboratory with a skeleton staff is attached to the School.

(d) There are no Palm *Gur* Training Schools in other States.

(e) The School deals with three varieties of palms, *viz.*, Date, Cocoanut and Palmyra, which are available at Cuddalore and theoretical knowledge is imparted regarding sago palms.

Shri Muniswamy: In the statement it is mentioned that golden syrup and sugar cubes, etc. are manufactured. Are they brought to the market?

Dr. P. S. Deshmukh: I could not say. I would have to ask for notice of the question.

Shri N. L. Joshi: May I know when was the School established?

Dr. P. S. Deshmukh: This has been working since the year 1948.

Shri Elayaperumal: May I know what amount is allotted by the Central Government for this purpose?

Dr. P. S. Deshmukh: I could not say how much is being spent specifically for this purpose, but on the whole we are spending about Rs. 6 lakhs on palm *gur* development.

Shri Elayaperumal: May I know what financial aid has been given to the School by the State Government?

Mr. Deputy-Speaker: That he does not know.

Dr. P. S. Deshmukh: I would like to have notice of the question.

Shri Muniswamy *rose—*

Mr. Deputy-Speaker: I am going to the next question.

Shri Muniswamy: Sir, this relates to Cuddalore. It is my constituency. I may be allowed to put one or two questions on this. With what difficulty I have put this question,—and I am not allowed even two or three supplementaries.

Mr. Deputy-Speaker: What I would urge upon hon. Members is this. Whenever an hon. Member tables a question he must have thought about it and the supplementaries arising out of the answer. Therefore I look to him first and try, as far as possible, to allow ample opportunity to him. Then I proceed to other Members. And lastly I come back to him. There is no point in saying it is his constituency. Every Member has his constituency.

Very well. He may put his question.

Shri Muniswamy: Thank you, Sir. In the statement it is given that a device known as 'aerial ropeways' has been introduced. I want to know whether the tappers are paid any additional sum under this process.

Dr. P. S. Deshmukh: I could not say. I will have to ask for notice.

HORTICULTURE IN ASSAM

***1196. Shri K. P. Tripathi:** (a) Will the Minister of **Food and Agriculture** be pleased to state whether Sardar Lal Singh who visited Assam recently to enquire into the position and possibility of horticulture in Assam has submitted his report?

(b) If so, what are its main recommendations?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Yes.

(b) A statement is placed on the Table of the House. [*See* Appendix VI, annexure No. 5.]

Shri K. P. Tripathi: In view of the fact that the condition of fruit growers in Khasi Hills is rather of an emergency, will the hon. Minister tell us which of the recommendations they consider as emergent and want to give top priority to?

Dr. P. S. Deshmukh: Even before this party went to Assam there was a party of three which had visited Assam to investigate into the same problem, and some of the recommendations are common. All those recommendations are being quickly given effect to. It will take a long time for me to detail what those recommendations are which have been given effect to.

Shri K. P. Tripathi: I do not want all the details. I want to know only those recommendations which are being given top priority.

Dr. P. S. Deshmukh: About Railway Board, availability of wagons and reduction in freight charges—these matters have been taken up with the Ministries concerned. And the State Government has been asked to frame plans, consistent with the Five Year Plan, for transport facilities being increased. And then roads and ropeways and others.

Shri K. P. Tripathi: May I know whether there is any railway in the Khasi Hills? If there is no railway, then the question of wagons does not arise!

Dr. P. S. Deshmukh: I did not refer to Khasi Hills alone. I referred to the general recommendations as such, and there are recommendations so far as the Railways are concerned. I did not notice specially that my hon. friend's question related only to Khasi Hills.

Shri K. P. Tripathi: May I know, Sir,....

Mr. Deputy-Speaker: I have allowed a number of questions to be asked. Next question. He has already asked four questions.

Shri K. P. Tripathi: Only two, Sir. Two or three were clarifications.

Mr. Deputy-Speaker: All right. One more question.

Shri K. P. Tripathi: May I know whether there is any recommendation for the establishment of canning and juice extracting factories, and if so whether the Government is thinking of advancing any sums for the establishment of such factories quickly?

Dr. P. S. Deshmukh: The report came to us on the 13th of August. The hon. Member is correct that there is a recommendation that the more inferior kinds of fruits should be crushed and made into squashes and other things. That recommendation will be considered in due course.

Shri A. M. Thomas: What are the qualifications of Sardar Lal Singh to go and enquire?

Dr. P. S. Deshmukh: They are very well known to everybody here.

CONDITIONS OF MINES IN ORISSA

***1197. Shri Sanganna:** (a) Will the Minister of **Labour** be pleased to state the number of visits made by the Inspectors of Mines to the mines in Orissa (over which the Government of India have supervisory control) during the last two years?

(b) What recommendations if any, have been made by them towards improvement of conditions of mine labourers there?

The Minister of Labour (Shri V. V. Giri): (a) 98.

(b) The visits made by the Inspectors of Mines are for the purposes of enforcement of the Mines Act, 1952, and the regulations, rules and bye-laws framed thereunder, which are to regulate the working conditions inside the mines. Their recommendations, therefore, relate generally to this matter. Nevertheless, inquiries are also made during these visits into the housing, medical and educational facilities etc. provided for miners and their families. In the case of the mines in Orissa the Inspector has impressed upon the mine owners the desirability of providing proper living amenities to their workmen. The results have not been unsatisfactory, especially, as the statutory obligation of mine owners is limited.

Shri Sanganna: May I know whether the Government are aware that wages are not paid as entered in the muster rolls because the labourers are illiterate, and if the answer is in the affirmative, what safeguards have been provided by the Government to ensure that proper wages are paid?

Shri V. V. Giri: I think there are enough safeguards. Generally wages are paid regularly and correctly. But, if there are any lapses in the matter, if the hon. Member gives me definite information, I shall look into it.

Shri Nanadas: May I know whether there is any obligation on the part of the Mines Inspectors to reside in the mining area?

Shri V. V. Giri: There is no obligation. They go whenever complaints occur and investigate.

Shri Vittal Rao: May I know if it is a fact that ventilation arrangements in these mines are not at all satisfactory?

Shri V. V. Giri: It may be correct. In larger mines, the ventilation arrangements are satisfactory. In some of the unorganised and smaller mines, they may not be satisfactory.

Shri Sarangadhar Das: May I know what further steps are taken by the Government when the recommendations of the Mines Inspectors are not implemented satisfactorily?

Shri V. V. Giri: If the instructions of the Mines Inspectors are not carried out, the owners can be prosecuted and will be prosecuted.

Shri Punnoose: Is there any instance in which the Inspectors visited these mines and recommended that immediate steps should be taken to obviate possible danger to life, and if such a report has come, what steps Government have taken?

Shri V. V. Giri: Immediate steps are taken by the Government and things put right.

RECRUITMENT OF POSTAL STAFF

***1198. Shri Muniswamy:** (a) Will the Minister of **Communications** be pleased to state whether it is a fact that 50 per cent. of the clerks' posts in the Post and Telegraph Department have been reserved for departmental candidates including class IV staff?

(b) If so, since when has this reservation been in force?

(c) Are these reserved posts being filled up by the departmental candidates at present?

The Minister of Communications (Shri Jagjivan Ram): (a) Yes.

(b) Since 1937, except for the period from 1943 to 1946 when it was reduced to 20 per cent.

(c) Yes, to the extent they qualify.

Shrimati Tarkeshwari Sinha: May I know, if the postal staff are promoted to some other post, whether any departmental examinations are held or whether just in the usual way they are promoted?

Shri Jagjivan Ram: The whole question is about departmental examination. The postmen, when they are to be promoted to the clerical cadre, have to sit in a competitive examination.

Shri Muniswamy: May I know whether it is a fact that representations were made to the Government by the President of the All India Postal Union and if so what were the results, and what were the points discussed?

Shri Jagjivan Ram: Apart from any representation from any Union, we have been examining the results of the examination and we find that it has not at all been satisfactory. Postmen and Class IV employees are not passing in the examination and filling all the posts reserved for them. As we are doing away with the recruitment examination for the clerical cadre, the question of postmen sitting in those examinations does not arise. But, we are going to prescribe some simple test in English, Geography and the Postal Guide for testing the efficiency of postmen for promotion to the clerical cadre.

Shri Muniswamy: Is it not a fact that because of the difficult question papers, the postmen are not able to get success even 10 or 20 per cent. in the examinations?

Shri Jagjivan Ram: It may be a fact. From the results, it appears that even when the question papers are not very stiff or of a very high standard, it is not possible for postmen to qualify themselves to the extent seats are reserved for them.

Kumari Annie Mascarene: May I know whether any consideration was given to the members of the extra-departmental services when they were disbanded and post offices taken under departmental services?

Shri Jagjivan Ram: Consideration is generally shown to them if they possess the minimum required qualifications. It is open to them to take part in the competitive examinations. We relaxed the restrictions on the upper limit of age in their case.

Shri Nanadas: Out of the posts reserved for departmental candidates, may I know what percentage is reserved for the Scheduled Castes?

Shri Jagjivan Ram: I am afraid no percentage is reserved for the Scheduled Castes in these reserves. But, in direct recruitment, the usual 12·6 per cent. is reserved.

Shri Damodara Menon: Is it a fact that the rules regarding recruitment of clerks through examinations are being relaxed now?

Shri Jagjivan Ram: As I have indicated, we are going to do away with recruitment examination. Therefore, for the postmen we will have to introduce some simple test so that after passing in that test, they may be promoted to the clerical cadre.

Shri Damodara Menon: Am I to understand that the recruitment examination will not hereafter be conducted for the recruitment of clerks?

Shri Jagjivan Ram: There will be no examination for recruitment.

Mr. Deputy-Speaker: There will be no written examination but some test will be held. That is what the hon. Minister says.

Shri Muniswamy: The hon. Minister said that 50 per cent. is reserved for postmen and Class IV staff. Since they are not able to pass the examinations, what happens to the rest of the reserved posts? How are they filled?

Shri Jagjivan Ram: They are filled by direct recruitment.

श्री हेडा : अब तक कितने पोस्टमैन इस प्रकार क्लेरीकल जाब्स के लिए रिक्रूट हुए हैं और उन का प्रतिशत कितना पड़ता है, यानी ५० परसेंट से कितना कम पड़ता है ?

श्री जगजीवन राम : सभी सालों की तादाद तो मेरे पास नहीं है लेकिन १९५१–५२ में जो इम्तिहान हुआ था उस के नतीजे मेरे सामने हैं । कुछ संख्या में आप को बता दूं उसी से आप यह अन्दाजा लगा सकते हैं कि यह परसेंटेज कितना कम रहा है । बम्बई सरकिल में इन के लिए ६५४ जगहें थीं....

उपाध्यक्ष महोदय : कितने सरकिल हैं ?

श्री जगजीवन राम : सरकिल तो आठ नौ हैं ।

Mr. Deputy-Speaker: It is not necessary.

Shri Jagjivan Ram: The percentage has been rather very poor.

श्री गणपति राम : क्या यह बात सत्य है कि शिड्यूल्ड कास्ट के कुछ सरवेंट जो कि अपर ग्रेड में थे उन को लोअर ग्रेड में लाया जा रहा है ?

श्री जगजीवन राम : जब तक आनरेबिल सदस्य यह नहीं बतलायेंगे कि यह किस वजह से किया जा रहा है तब तक मेरे लिए जवाब देना असम्भव है । हो सकता है कि ऐसा हो रहा हो । अगर उस के लिए कायदे में गुंजाइश होगी तो ऐसा किया जाता होगा ।

ASSOCIATION OF CIVIL SERVANTS

***1200. Shrimati Renu Chakravartty:** (a) Will the Minister of **Labour** be pleased to state what are the rights and functions allowed to an Association of civil servants?

(b) What are the differences between a Service Association and a Trade Union?

The Minister of Labour (Shri V. V. Giri): (a) and (b). A statement is laid on the Table of the House. [*See* Appendix VI, annexure No. 6.]

Shrimati Renu Chakravartty: In the statement it is said that there is some doubt whether Civil Servants' Unions are entitled to registration under the Trade Unions Act. Since the Trade Unions Act as it exists today does not make it clear that non-industrial workers associations cannot be recognised as a Trade Union, how have the Government refused them rights of Trade Unionship?

Shri V. V. Giri: The hon. Member is correct in her statement that there is some doubt, and therefore, civil service associations are also entitled to register themselves under the Trade Union Act.

Shrimati Renu Chakravartty: There is another point I would like to learn. In the case of industrial and non-industrial workers being in the same industry, does the Trade Union Act apply to them? Will they be recognised as trade unions?

Shri V. V. Giri: Yes. It applies to them.

Shrimati Renu Chakravartty: How is it then that in many industries where industrial and non-industrial workers are lumped together in the same union, the Trade Union Act is not applied to them?

Shri V. V. Giri: I do not think it is correct. If they do not want recognition, in that case it is their look-out, but I think they are entitled.

Shri Nambiar: In the statement it is stated that the administrative authorities are given certain rights to recognise certain associations. May I know what is the actual basis on which these administrative authorities recognise or not recognise certain unions?

Shri V. V. Giri: In the case of Class IV employees that discretion is left in the hands of the authorities, whether they should recognise or not.

Shri Nambiar: May I know, Sir, whether the Home Ministry has issued any instructions in the matter of granting recognition to service unions? If so, what does it contain mainly?

Shri V. V. Giri: I have not got that information with me, but if the hon. Member puts another question, preferably to the Home Ministry, they may be able to reply.

Shrimati Renu Chakravartty: In the statement he says that those who are in service associations are committed not to resort to any other means such as arbitration, conciliation etc. I would like to know then, in the matter of issues remaining unsolved to the satisfaction of the workers, what is the means of redress they have except depending on the sweet will of the Department.

Shri V. V. Giri: Generally, all the questions relating to these people ought to be solved because they have greater security of service, they have greater protection, and if they come in contact with their authorities things will be settled. That is our view of the matter.

Shri Nambiar: May I know whether the representative character of these associations is taken into consideration mainly for recognition, or any other consideration?

Shri V. V. Giri: It is not so much the representative character of these institutions, it is rather the protection they require under special circumstances.

Shri Nambiar: What are the special circumstances?

Mr. Deputy-Speaker: I cannot go on in this matter. Only some questions may be put for elucidation.

Shri Damodara Menon: May I know whether, after the attainment of independence, the rules and regulations of civil service associations have been revised, or are they the same as of old?

Shri V. V. Giri: I think they have been revised. I am not quite certain, however.

Shri K. K. Basu: In the case of dispute and difference between the appointing authorities and the employees concerned, is there any arbitration procedure or any other method by which the employees refer the dispute to anybody other than the authority who has appointed them?

Shri V. V. Giri: I do not think so.

Mr. Deputy-Speaker: Next question.

Shri Nambiar: Arising out of the statement that he has placed on the Table, there are two categories given, one for....

Mr. Deputy-Speaker: There are a number of questions. A number of things may arise out of this statement. I am not going to allow an endless number.

Shri Punnoose: I want to ask only one question.

Shri Nambiar: Here is a question arising out of the statement.

Mr. Deputy-Speaker: I agree.

Shri Nambiar: About the servants in Part "B" States.

Mr. Deputy-Speaker: They can study the statement and then put some other question later on. Shrimati Renu Chakravartty. Next question.

INDIAN AIR LINE WORKERS

***1201. Shrimati Renu Chakravartty:** (a) Will the Minister of **Communications** be pleased to state whether the Indian Airlines Workers have been recognized as industrial employees?

(b) Has the Airlines Workers' Union been recognized as a Trade Union as per the Trade Union Act?

(c) Has any recognition been given by the Department to any aviation Workers Trade Unions?

(d) If so. which are they?

The Minister of Communications (Shri Jagjivan Ram): (a) There is no question of any category of workers being recognised as "industrial employees" by the Government. The workers of the air transport undertakings are, however, covered by the definition of "workman" contained in Section 2(a) of the Industrial Disputes Act, 1947.

(b) The question does not arise, as the Indian Trade Union Act, 1926, does not contemplate the recognition of unions of workers by the Government.

(c) and (d). The question of Government according "recognition" to Unions of non-Government servants does not arise.

Shrimati Renu Chakravartty: In trying to have proper relations between the State and the workers, is it not the attitude of Government to give recognition to these workers' unions that have a representative character so that these relations may be better?

Shri Jagjivan Ram: Well, it is a very desirable ideal she has set forth, but the recognition has to be given in the first instance by the employer, and here the employer is the Indian Airlines Corporation. So, the question of Government granting recognition to the employees of another employer does not arise.

Shrimati Renu Chakravartty: Today I saw in the papers that there is a committee which has been set up under the new Corporation which is going to manage industrial relations. There the Government is also represented. What will be the attitude of the Government—the representative of the Government? May we know that answer?

Shri Jagjivan Ram: He will work as a member of that Board in his capacity as a. member of the Indian Airlines Corporation.

Shrimati Renu Chakravartty: No, Sir. He has not answered my question. What is going to be the attitude on this particular question.

Shri Jagjivan Ram: The attitude will be determined according to the question before the Member.

Shrimati Renu Chakravartty: Under the same Ministry, recognition has been given to Posts and Telegraphs workers' unions. Why is it that the same attitude cannot be applied in the case of the civil aviation workers?

Shri Jagjivan Ram: This is a question of the employees in the Indian Airlines Corporation. In the case of the Indian Airlines Corporation, the employer is the Indian Airlines Corporation and not the Government. So, the recognition has to be obtained from the Indian Airlines Corporation. In the case of the Posts and Telegraphs Department, Government itself is directly the employer. So, the question whether to recognise these unions or not is directly the concern of the Government, and we have recognised them. As far as the civil aviation department is concerned, the employees' association has been recognised as an association of Government servants.

Shri N. M. Lingam: May I know, Sir, the steps taken by the Government to exclude politics and politicians from interfering with the work of such a vital service as the airlines?

Mr. Deputy-Speaker: No, no.

Shri N. M. Lingam: My question has not been answered (*interruption*).

Mr. Deputy-Speaker: Order, order.

Shri Jagjivan Ram: This question can be more pertinently put to the Minister of Labour, but I may say that the trade union movement in this country has been greatly hampered by the importation of politics into it.

Shri Thanu Pillai: May I know whether recognition for these air service unions is not granted in view of the experience that the Department had in giving recognition to the Posts and Telegraphs workers' unions?

Shri Jagjivan Ram: I could not get his question.

Mr. Deputy-Speaker: We could not hear the question at all. Anyhow, the hon. Member is suggesting an answer. He says "Is it because of such and such a thing that it has not been done?" Very well. Mr. Basu.

Shri K. K. Basu: May I know if the Government has given any instructions to the Chairmen of the two Corporations and also to their nominee to consider favourably the recognition of these unions?

Shri Jagjivan Ram: Naturally, if there are unions of the employees in the two Corporations, the Chairmen of the Corporations, in the interests of the smooth working of the Corporations, will themselves consider the desirability of recognizing the representative unions of the employees.

Shri Kelappan: Inasmuch as these airlines have been taken over by the Government, will the Government follow the same attitude and principle towards those labour unions as in the case of the Posts and Telegraphs unions?

Shri Jagjivan Ram: I have already said that in the case of the Posts and Telegraphs we are the direct employers. In the case of the employees of the Corporations, the employers are the Corporations. So, in the first instance, it will be for the Corporations to recognise the organization of the employees.

Shri Kelappan: My question is whether the Government will have the same attitude.

Mr. Deputy-Speaker: They will not do so. That is what he says.

Shri Sarangadhar Das: I think one question was not answered. I want to repeat it. Did Government give any instructions to the two Chairmen as to what attitude they should display?

Mr. Deputy-Speaker: How many times is this question put, until it is wrung out from the Minister?

Shri Sarangadhar Das: That was not answered.

Mr. Deputy-Speaker: He has said already that those people serving on the Committee or the Board know what to do.

Shri G. P. Sinha: Will that not amount to interference in the day to day administration of the Corporation?

Mr. Deputy-Speaker: The Question-hour is over.

WRITTEN ANSWERS TO QUESTIONS

KALKALIGHAT-DHARMANAGAR RAILWAY LINE

*1199. **Shri Dasaratha Deb:** (a) Will the Minister of **Railways** be pleased to state whether it is a fact that the Government of India had taken a decision to open a railway line from Kalkalighat Railway Station (Cachar) to Dharmanagar town (Tripura), a distance of about 17 miles?

(b) Is it a fact that the Government of India have abandoned this plan?

(c) If so, what are the reasons for the abandonment of this plan?

(d) Are Government aware that there is no connecting link of Dharmanagar with the rest of Tripura for conducting internal and outside trade?

(e) are the Government of India again considering to open the proposed railway line from Kalkalighat (Cachar) railway station to Dharmanagar town (Tripura)?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) to (c). Reconnaissance Engineering and Traffic Surveys were carried out in 1950; but, no decision for its construction was taken, as the traffic prospects were very poor.

(d) The completion of the Assem-Agartala Road is expected to provide the required link.

(e) No.

CHIEF DIRECTOR OF PURCHASES

*1202. **Shri K. C. Sodhia:** (a) Will the Minister of **Food and Agriculture** be pleased to state the functions of the Chief Director of Purchases?

(b) Up to what limit can he make purchases on his own authority?

(c) What are the agencies to make purchases in foreign countries?

(d) What other Ministries are consulted in case of barter?

(e) Are tenders invited in these deals at any stage?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) and (b). A statement showing the functions of the Chief Director of Purchase and his financial powers regarding purchases is placed on the Table of the House. [*See* Appendix VI, annexure No. 7.]

(c) The Chief Director of Purchase has no agencies in foreign countries for purchases.

(d) No purchases are made on barter system.

(e) Tenders are invited for purchases by open tender. Proprietory articles are purchased by limited tender or single tender.

RAILWAY COACHES

***1203. Shri Vittal Rao:** Will the Minister of **Railways** be pleased to state:

(a) whether it is a fact that while the Hindustan Aircraft Factory is paid only Rs. 5,000, the Swiss firm is allowed Rs. 22,500 as profit per every coach manufactured at the respective factories;

(b) if so, the reasons for the same;

(c) when the Cost Audit Report regarding the fixation of the price of the coaches manufactured at the Hindustan Aircraft Factory was received by the Railway Board; and

(d) when the examination of the report is likely to conclude?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). According to the mutual agreement between the Ministry of Railways and Ministry of Defence, the Hindustan Aircraft Limited are paid a profit of Rs. 5000/- per coach. According to the Agreement with the Swiss Firm a profit of 10 per cent. on the actual cost, as audited, for 50 body shells without furnishing plus a profit of 5000 Swiss Francs per furnished coach for interior furnishing of the first 50 coaches has been paid.

The second and third orders for 50 coaches each unfurnished have been placed on the firm at a fixed price.

(c) November, 1952.

(d) It has been accepted by the Ministry of Railways but awaits the comments of the Ministry of Defence.

विन्ध्य प्रदेश में नई रेलवे लाइन

***१२०४: श्री बी० डी० शास्त्री :** क्या रेल मंत्री यह बतलाने की कृपा करेंगे कि :

(क) क्या विन्ध्य प्रदेश में रेलवे की नई लाइनें निकालने की स्कीम पर कोई अन्तिम निर्णय किया गया है; और

(ख) क्या निकट भविष्य में सतना से रीवा तक रेलवे लाइन निकालने की कोई योजना है ?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) No such scheme has been included in the first Five-Year Plan but certain proposals affecting Vindhya Pradesh are under examination in connection with Railway programmes for the 2nd Five Year Plan period.

(b) No.

DISPOSAL OF DAK ON KHURDA-DASPALLA LINE

***1205. Pandit Lingaraj Misra:** (a) Will the Minister of **Communications** be pleased to state whether it is a fact that under an arrangement recently introduced, all Dak on the Khurda Daspalla line is being detained at Khurda for twenty-four hours to the inconvenience of the two Sub-divisions of Khurda and Nayagarh in the Puri District?

(b) Has this inconvenience been brought to the notice of the authorities?

(c) If so, has the previous arrangement been restored?

The Minister of Communications (Shri Jagjivan Ram): (a) Yes. some articles do suffer delay at Khurda.

(b) Yes. I am grateful to the Hon'ble Member for raising this point.

(c) Steps to obviate the delay will be taken forthwith.

रेगिस्तानी क्षेत्र का प्रसार

*१२०६. **श्री बादशाह गुप्त** : क्या खाद्य तथा कृषि मंत्री यह बतलाने की कृपा करेंगे कि भारतवर्ष का पाकिस्तान की सीमा के पास स्थित रेगिस्तानी क्षेत्र १९४७ से अब तक कितना बढ़ चुका है ?

The Minister of Agriculture (Dr. P. S. Deshmukh): No information is available.

THROUGH TRAIN BETWEEN MADRAS EGMORE AND SALEM

***1207. Shri C. R. Narasimhan:** (a) Will the Minister of **Railways** be pleased to state whether representations have been made on behalf of the public South of Jalarpet served by the ex-South Indian Railway for restoring passenger-train connections to the Express trains running between Madras and Bangalore?

(b) What action has been taken on suggestions for running through trains between Madras (Egmore) and Salem Town?

The Parliamentary Secretary to the Minister of Railways and Transport (Shri Shahnawaz Khan): (a) Yes. Arrangements are being made to introduce one passenger train each way between Jalarpet and Salem Junction from 1-10-1953 connecting at Jalarpet with the Madras-Bangalore Express trains.

(b) No suggestions were recently made for the introduction of a through train between Madras (Egmore) and Salem Town. A suggestion was, however, made for the provision of a through bogie coach between Madras (Egmore) and Salem Junction. The matter was examined but the traffic offering did not justify the provision of such a through coach service.

TRANSFER OF POSTAL CIRCLE OFFICE FROM BELLARY

***1208. Shri Gadilingana Gowd:** (a) Will the Minister of **Communications** be pleased to state whether there is any proposal to change the Postal Circle from Bellary to any other place in the Mysore State?

(b) If so, have any representations been received from the Postal Services Unions and others against such proposal?

(c) What action has been taken by Government on these representations?

The Minister of Communications (Shri Jagjivan Ram):* (a) Consequent on the creation of Kurnool Division, the headquarters of Bellary Division has been ordered to be shifted from Bellary to Shimoga.

(b) Yes.

(c) The matter is being examined.

DEMANDS OF COLLIERIES WORKERS' UNION

***1209. Shri Vittal Rao:** Will the Minister of **Labour** be pleased to state:

(a) the reasons that weighed with Government to refer the demand of Collieries Workers' Union for increase in wages to Industrial Tribunal as against Conciliation Board as was done previously; and

(b) what are the demands that will be adjudicated upon by the Tribunal?

The Minister of Labour (Shri V. V. Giri): (a) A number of workers' organisations have pressed for revision of the wages of coal miners. When over 1000 collieries situated in several coalfields are concerned, it is difficult to arrive at binding and enforceable agreements through conciliation. This can be achieved only through adjudication. When the last Conciliation Board was set up, the Industrial Disputes Act, 1947, providing for compulsory adjudication had not come into force. The findings of the Conciliation Board suffered from the fact that they were not legally enforceable. Taking all these factors into account and also the delay likely to be caused in the event of the Conciliation Board's failure to produce an agreement, Government decided that adjudication was preferable to conciliation by a Board.

(b) The main demands to be adjudicated upon by the Tribunal relate to wages, grading, payment for load and lift, return railway fare, compensation for involuntary unemployment, paid festival holidays and foodgrain concessions.

DERATIONING AND DECONTROL OF FOODGRAIN

***1210. Shri L. N. Mishra:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) whether it is a fact that the Government of India are embarking upon some new policy as regards foodgrains as a result of which wheat and some other foodgrains are to be derationed and decontrolled;

(b) if so, the outline of the policy;

(c) whether control on price and distribution of rice is to continue; and

(d) if so, for how long?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) to (d). The whole matter is under consideration and no details can be supplied at present.

ACCIDENT IN DHEMOMAIN COLLIERY

***1211. Shri P. C. Bose:** Will the Minister of **Labour** be pleased to state:

(a) whether Government are aware that on the 23rd August, 1953, six mine workers died in Dhemomain colliery as a result of the collapse of a pillar;

(b) whether the working place was properly examined by qualified supervisors as required under the Coal Mines (Conservation and Safety) Act, 1952 before the miners went to work there;

(c) whether any enquiry has been held into this case by the Department concerned; and

(d) if so, what are its findings?

The Minister of Labour (Shri V. V. Giri): (a) Yes.

(b) Yes.

(c) Yes.

(d) A preliminary report submitted by the Chief Inspector of Mines shows that the accident was by fall of roof over an extensive area caused by a severe bump. The bump was due to settlement over the depillared area filled with sand resulting in a shearing of the rocks above the seam along the line of a dyke. The roof at the place of accident appears to have been adequately supported and the accident was apparently a case of misadventure.

ACCIDENT IN CHINAKUTI COLLIERY

***1212. Shri P. C. Bose:** (a) Will the Minister of **Labour** be pleased to state whether Government are aware that a number of mine workers died in Chinakuti colliery on the 24th August, 1953 as a result of flood water entering the Mine?

(b) How many workers were involved in the accident and how many died?

(c) What attempts were made to save the workers from the flooded area?

(d) Has any enquiry been held by the Department concerned and if so, what are its findings?

The Minister of Labour (Shri V. V. Giri): (a) Yes.

(b) At the time of the occurrence, thirteen persons were present underground out of whom six died and two sustained serious injuries.

(c) Rescue operations were organised immediately after the occurrence was reported. Out of the thirteen persons, six came out of the mine unaided and one of the seriously injured persons was rescued. The remaining six were killed almost instantly by drowning.

(d) Yes. The accident is considered to be a case of misadventure as an unforeseen weakness in the natural strata near the bottom of a shaft 95 feet deep, which was to be used as a sand separator and bunker, resulted in transmission of hydraulic pressure over a structure of steel and reinforced concrete at the bottom of the shaft and caused the structure to collapse when the Damodar river, in flood, inundated the shaft.

STRIKE BY TEA GARDEN WORKERS

***1213. Shri H. N. Mukerjee:** Will the Minister of **Labour** be pleased to state:

(a) whether Government's attention has been drawn to the press report of a strike by 20,000 workers in some thirty European-owned tea gardens in Assam; and

(b) if so, what steps have been taken, or are proposed to be taken in this regard?

The Minister of Labour (Shri V. V. Giri): (a) Yes.

(b) The dispute falls in the State sphere. According to a report received from the Government of Assam the strike was called off after the management had agreed to pay compensation for lay-off in economic gardens at the rate of 50 per cent. of wages and to upgrade plucking rates.

CHILD MORTALITY

***1214. Shri Achuthan:** Will the Minister of **Health** be pleased to state:

(a) the percentage of child mortality in the various States in India during the last five years; and

(b) the causes for high child mortality in India and the short term steps Government propose to take in the matter?

The Deputy Minister of Health (Shrimati Chandrasekhar): (a) and (b). A statement is placed on the Table of the House. [*See* Appendix VI, annexure No. 8.]

AIR LINES

***1215. Shri Achuthan:** Will the Minister of **Communications** be pleased to state:

(a) whether Government propose to open any new air lines in the near future; and

(b) the total number of employees serving in the two Air Corporations?

The Minister of Communications (Shri Jagjivan Ram): (a) A technical Committee of the Indian Airlines Corporation has been constituted recently to consider, *inter alia*, the formulation of a suitable route pattern for the operation of air services. The question of opening new routes will be considered by the Corporation after the report of the Committee has been received.

(b) The total number of employees of the two Air Corporations is 9214.

INLAND WATER TRANSPORT

***1216. Shri Achuthan:** Will the Minister of **Transport** be pleased to state how far the development works have progressed in the Inland Water Transport in South India as per the Plan?

The Deputy Minister of Railways and Transport (Shri Alagesan): A provision of Rs. 6 lakhs has been included in the first Five Year Plan towards the Central Government's contribution to the Water Transport Board that may be set up in South India covering Madras and Travancore-Cochin States. The question of setting up such a Board has been taken up with the State Governments concerned.

CONGESTION ON SOME SECTIONS OF NORTH-EASTERN RAILWAY

616. Shri Anirudha Sinha: (a) Will the Minister of **Railways** be pleased to state the daily average number of passengers who travelled between Darbhanga and Jainagar and Darbhanga and Nirmali both ways on the North-Eastern Railway between 1st January, 1953 to 1st June, 1953?

(b) What was the average carrying capacity of the passenger coaches provided daily in up and down trains on both the sections?

(c) Was the number of coaches daily provided sufficient to carry the passengers?

(d) If not, what steps do the Railway Administration propose to take to relieve the congestion?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) to (d). The information is being collected and will be placed on the Table of the House in due course.

MOBILE POST OFFICES IN PUNJAB

619. **Prof. D. C. Sharma:** Will the Minister of **Communications** be pleased to state:

(a) the names of cities in the Punjab where arrangements have been made for having Mobile Post Offices;

(b) the number of such post offices; and

(c) how many new Mobile Post Offices are going to be opened in the Punjab in 1953-54?

The Minister of Communications (Shri Jagjivan Ram): (a) The new urban Mobile Post Offices are at present being introduced only in those cities which are connected by Night Air Mail. No city in the Punjab is directly connected by Night Air Mail.

(b) The urban Mobile Post Offices are functioning at 4 places in India *viz.*, Nagpur, Delhi, Madras and Kanpur, and they number 5.

(c) Nil.

POST OFFICES IN PUNJAB

620. **Prof. D. C. Sharma:** Will the Minister of **Communications** be pleased to state:

(a) the number of post-offices opened in the Punjab, district-wise, in 1952-53;

(b) the population per post office in the Punjab; and

(c) the special postal arrangements made in the hilly areas of the Punjab?

The Minister of Communications (Shri Jagjivan Ram): (a) A statement is laid on the Table of the House. [*See* Appendix VI, annexure No. 9.]

(b) 6,162 persons.

(c) The following arrangements were made in the hilly areas of the Punjab during 1952-53:—

(i) conveyance of mails on motor buses between Alampur-Lambargaon (Kangra Division).

(ii) Frequency of delivery arrangements was increased in 13 places.

(iii) 2 Additional village postmen were employed to improve the delivery arrangements.

(iv) 17 additional letter boxes were planted.

(v) 963 "no-dak" villages were brought under delivery beat system.

TRAINING OF *Gaushala* WORKERS

621. **Shri S. C. Samanta:** Will the Minister of **Food and Agriculture** be pleased to state:

(a) whether arrangements have been made for the training of *Gaushala* workers from various States in India;

(b) if so, where the training centres are located;

(c) how many workers have been trained so far (State-wise); and

(d) whether there are any non-official training centres in India?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Yes.

(b) There is only one centre at present which is located at Pipri (Wardha).

(c) The first batch of 15 workers will complete their training in December, 1953. The workers come from the following States:

(1) Bihar	...	9
(2) Rajasthan	...	2
(3) Madhya Pradesh	..	1
(4) Ajmer	..	2
(5) Madhya Bharat	...	1
Total		15

(d) Pipri centre is a non-official training centre. Government have no information about any other non-official centre.

EXHIBITION OF NEWSPAPERS

622. **Shri Nageshwar Prasad Sinha:** (a) Will the Minister of **Railways** be pleased to state whether an Exhibition of Newspapers was organised and held in the compound of the Indian Railways Centenary Exhibition in New Delhi in March, 1953?

(b) If so, which countries exhibited their newspapers?

(c) How many newspapers were exhibited?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) A firm called 'Public Relations Counsel of India' applied for, and was allotted, a small unit on the Indian Railways Centenary Exhibition grounds for the display of some newspapers and journals.

(b) and (c). As the display of the newspapers and journals was arranged by an Exhibitor, information asked for is not available. No sales were permitted.

TRADE UNIONISTS

623. **Shri Radha Raman:** (a) Will the Minister of **Labour** be pleased to state whether the International Conferedation of Trade Unionists have opened a college for Trade Unionism at Calcutta?

(b) If so, what facilities did it seek from the Government of India to start this college?

The Minister of Labour (Shri V. V. Giri): (a) Yes.

(b) No facilities were sought by the International Confederation of Free Trade Unions from the Government of India.

Gosadans

624. **Shri Jhulan Sinha:** Will the Minister of **Food and Agriculture** be pleased to state the number of *Gosadans* sanctioned so far and how many are working, State-wise, at present?

The Minister of Agriculture (Dr. P. S. Deshmukh): A statement containing the required information is attached.

STATEMENT

The number of Gosadans sanctioned and working State-wise in different State.—

Name of State	No. of *Gosadans* sanctioned so far	No. of *Gosadans* working
(1) Bihar	3	2
(2) Madhya Pradesh	7	..
(3) Orissa	1	..
(4) Uttar Pradesh	2	..
(5) P.E.P.S.U.	1	..
(6) Bhopal	1	1
(7) Kutch	1	..
(8) Tripura	1	1
(9) Vindhya Pradesh	1	1
TOTAL	18	5

ELEPHANTS

625. **Shri Muniswamy:** (a) Will the Minister of **Food and Agriculture** be pleased to state how many elephants are being maintained at present by the Andamans Forest Department?

(b) How many of them have become unfit for work?

(c) What is the average monthly expenditure met by the Department for maintaining these elephants?

(d) How many of them were purchased and for what price?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) to (d). The information is being collected and will be placed on the Table of the House in due course.

CENTRAL RICE RESEARCH STATION, CUTTACK

626. **Shri Sanganna:** Will the Minister of **Food and Agriculture** be pleased to state the average annual expenditure and receipt in respect of the Central Rice Research Station, Cuttack?

The Minister of Agriculture (Dr. P. S. Deshmukh): The average annual expenditure (inclusive of capital outlay) from 1948-49 to 1952-53 is Rs. 3·85 lakhs. The average annual receipts during the same period amount to Rs. 20,000.

LABOURERS IN COLLIERIES

627. **Shri K. C. Sodhia:** Will the Minister of **Labour** be pleased to state:

(a) the total number of labourers employed in the coal mines under the Government of India, State-wise, separately for (i) males and (ii) females as on the 31st March, 1952 and the 31st March, 1953 respectively;

(b) the quantity of coal output in private and Government Collieries during the years 1951-52 and 1952-53; and

(c) the total amount paid to labourers in Government Collieries during 1951-52 and 1952-53?

The Minister of Labour (Shri V. V. Giri): (a) and (b). A statement giving the information is placed on the Table of the House. [*See* Appendix VI, annexure No. 10.]

As statistics in respect of labour employed on the last day of each month are not collected, the figures given in the Statement are in respect of the daily average number of persons employed during the months of March 1952 and March 1953.

(c) The information is being collected and will be placed on the Table of the House when available.

PRODUCTION OF CASHEWNUTS

628. **Th. Lakshman Singh Charak:** (a) Will the Minister of **Food and Agriculture** be pleased to state whether the Central Government have taken any measures to increase the production of cashewnuts in India?

(b) What was the total area and production of cashewnuts in India in 1947 and in 1952 separately?

(c) Are any cashewnuts imported into India?

(d) If so, from which countries and what are the quantities imported every year from 1947 to 1952?

(e) How many factories are there in India which process cashewnuts?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) Yes; the Indian Council of Agricultural Research are financing schemes for research on cashewnuts in the States of Madras, Bombay and Travancore-Cochin. The scheme in respect of Madras aims at extending the cultivation to new areas and at improving the yields of the existing plantation of cashewnuts. The schemes in respect of Bombay and Travancore-Cochin relate to the study and application of improved cultural practices.

(b) Data about the area and production of cashewnuts for 1947 are not available. The earliest year for which they are available is 1948-49 when they were, respectively 159·7 thousand acres and 50.9 thousand tons. The corresponding figures for 1951-52 are 162·4 thousand acres and 54.9 thousand tons respectively.

(c) Yes.

(d) While information about the countries from which cashewnuts are imported into India is not readily available, it may be stated that a large quantity of these imports is from East Africa, the only other major producing country. A detailed statement showing the total imports of cashewnuts into India for the years 1947 to 1952 is placed on the Table of the House. [*See* Appendix VI, annexure No. 11.]

(e) There are 140 factories in India which process cashewnuts.

BOOKING OF COWS AND BUFFALOES

629. **Pandit Thakur Das Bhargava:** (a) Will the Minister of **Railways** be pleased to state how many cows and she-buffaloes were booked to the Rail-

way Stations of Howrah, Bombay and Delhi from Amritsar, Jullundur, Ludhiana, Jagraon, Faridkot, Jind, Bhatinda, Rohtak, Hissar, Ghaziabad, Agra, Patna and Banaras during the years 1947, 1948, 1949, 1950, 1951 and 1952 respectively?

(b) How many cows and she-buffaloes were imported into Howrah, Bombay and Delhi Railway Stations in the years 1947, 1948, 1949, 1950, 1951 and 1952 respectively?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). Whatever information is available with the Railways is being collected and will be placed on the Table of the House in due course.

डाक के टिकट

६३०. **श्री बी० डी० शास्त्री :** क्या संचरण मंत्री यह बतलाने की कृपा करेंगे कि क्या किसी संस्कृत कवि या विद्वान (जैसे बाल्मीकि, व्यास या कालीदास) का चित्र डाक के टिकटों पर प्रकाशित किया गया है ?

The Minister of Communications (Shri Jagjivan Ram): No, Sir.

DRUG RAILWAY STATION

631. **Shri Kirolikar:** (a) Will the Minister of Railways be pleased to state whether it is a fact that the cartsmen carrying grain for export from Drug Railway Station on Western Railway, have to cross railway line to go to the goods shed.

(b) If so, do Government propose to construct an overbridge on the Railway line?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) A level crossing is provided within the Drug Railway Station Yard, with an approach road leading to goods platform and shed. The distance from the level crossing to the goods shed is about 1700 ft.

(b) Not at present.

RETRENCHMENT OF WORKERS IN RAWANWARA COLLIERY

632. **Shri Vittal Rao:** Will the Minister of Labour be pleased to state:

(a) whether it is a fact that 75 workers of Rawanwara Colliery, Chindwara District, Madhya Pradesh have been retrenched during the month of August, 1953;

(b) if so, what are the reasons;

(c) whether any relief for this involuntary unemployment has been paid;

(d) if so, how it was computed;

(e) whether the Madhya Pradesh Collieries Workers' Union was informed of this before effecting this retrenchment; and

(f) what is the annual production and the strength of workers?

The Minister of Labour (Shri V. V. Giri): (a) to (f). The information is being collected and will be placed on the Table of the House.

INSPECTORS' EXAMINATION

633. **Shri Krishnacharya Joshi:** Will the Minister of Communications be pleased to state:

(a) whether an examination to select candidates for Post Office and Railway Mail Service Inspector Cadre is held every year; and

(b) if so, whether such an examination was held this year?

The Minister of Communications (Shri Jagjivan Ram): (a) This has been the intention.

(b) As the results of the last examination were announced only in June last, no examination is being held this year. A special examination is, however, proposed to be held for some Circles in November. The question of holding the next examination for all Circles is under examination.

TIMINGS OF STEAMER SERVICE

634. **Pandit S. C. Mishra:** Will the Minister of Railways be pleased to state whether Government propose to publish the timings of Steamer Service between Monghyr and Monghyr Ghat on the Eastern Railway Section in the Railway Time Table?

The Deputy Minister of Railways and Transport (Shri Alagesan): No, as this steamer service, which is run by a private agency, is not a coordinated service running in conjunction with the Railway.

ROAD LINK BETWEEN ASSAM AND NORTHERN INDIA

635. Pandit S. C. Mishra: Will the Minister of Transport be pleased to state:

(a) whether the contemplated construction of a road link between Assam and the rest of Northern India has been still kept pending or has been abandoned;

(b) whether road of some form or other exists as far as Karhagola in the District of Purnea which though not motorable can be used by a jeep;

(c) whether the link entirely disappears between Munghyer Ghat of Kadhagola;

(d) whether any surveys were undertaken in this section;

(e) if so, whether the map is ready in details;

(f) whether any military transport or convoy can reach Assam from Lucknow or Ranchi without using railway transportation;

(g) whether Government contemplate setting up some form of road communication on the charted line in the near future; and

(h) if not, when?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) No. Improvement works on the road referred to are in progress.

(b) A motorable road exists along the permanent alignment of the National Highway from Assam to Karhagola (north of Ganga). There is also a motorable road connecting Kolgong Ghat (opposite Karhagola on the south of Ganga) with Dumri on National Highway No. 2 (Calcutta-Delhi road).

(c) Yes. This is a part of the missing link between Baruni (opposite Mokameh ghat) and Karhagola on the permanent alignment of the National Highway.

(d) Yes. The surveys are still in progress.

(e) Details of the alignment will be settled after the surveys are over.

(f) Yes.

(g) and (h). Yes. In fact Assam is being connected with the rest of India by two routes one of which is the one referred to by the Honourable Member and another goes from Calcutta to Silliguri *via* Behrampur, Dhulian and Raigunj. It is proposed that the missing link on the north of Ganga should be constructed so as to be ready simultaneously with the proposed Mokameh bridge over Ganga as without this bridge the road will not serve the purpose for which it is intended.

RAILWAY STAFF QUARTERS AT BUDGE BUDGE STATION

636. Shri Waghmare: Will the Minister of Railways be pleased to state:

(a) whether it is a fact that the construction of the Railway Staff Quarters of small units like L/77, T/76 and L/75 at Budge Budge Station on the Eastern Railway though started in the year 1949, has not been completed upto now with all the amenities like water taps, drains, electricity etc:

(b) if so, the reasons therefor; and

(c) whether it is a fact that such incomplete quarters have been allotted to the staff and rent is being deducted from their salary?

The Deputy Minister of Railways and Transport (Shri Alagesan): (a) and (b). The quarters in question were completed and handed over for occupation on the 29th November, 1951. The site of quarters being in a low-lying area, considerable ash-filling had to be done. A 2" tube well has been provided 100 ft. away from the quarters. The provision of water taps will be made when the materials indented for have been received. In accordance with the policy then in force, these quarters were not electrified. The electrification of such quarters is provided on a programme basis depending on the availability of funds from year to year.

(c) As the quarters are according to the prescribed types, the realisation of rent is made according to the rules in force.

TELEPHONE EXCHANGE ON MOHAMEDALI ROAD IN BOMBAY

637. Shri Gidwani: (a) Will the Minister of **Communications** be pleased to state whether it is a fact that Government had decided to construct a new building for a new Telephone Exchange in Bombay on a plot of land on Mohamedali Road?

(b) Is it a fact that the squatters who were living on that plot were removed from there and the ground was cleared for the purpose last year?

(c) Is the ground being used at present by secondhand goods dealers and for keeping scrap metal as the construction of the building has not been taken up?

(d) When do Government propose to begin construction on the plot?

The Minister of Communications (Shri Jagjivan Ram): (a) Yes.

(b) Yes. The Bombay Municipality to which the plots belonged evicted the occupants before leasing out the same to P. and T. Department.

(c) Certain unauthorised persons have stored furniture and scrap material on the plots and action is being taken to clear the site.

(d) The building work will be taken up by about the end of 1954.

SOUTHERN REGIONAL COMMITTEE OF THE INDIAN COUNCIL OF AGRICULTURAL RESEARCH

638. Shri Muniswamy: (a) Will the Minister of **Food and Agriculture** be pleased to state the important subjects on which discussions were held at the annual meeting of the Southern Regional Committee of the Indian Council of Agricultural Research at Hyderabad during the third week of August, 1953?

(b) Who are the Members of the Southern Regional Committee of the Indian Council of Agricultural Research?

(c) What are the areas, if any, selected under the scheme for cross-breeding?

(d) Has the proposal to establish an artificial insemination station been finalised?

(e) If so, where will this station be established?

The Minister of Agriculture (Dr. P. S. Deshmukh): (a) and (b). A statement is placed on the Table of the House. [*See* Appendix VI, annexure No. 12.]

(c) The areas recommended in general for initiating cross-breeding research on cattle are (i) the hilly areas and (ii) the plains in the heavy rainfall areas of the country.

(d) Not yet. The proposal has been approved by this Committee, but in accordance with the normal procedure it will have to be considered by the Advisory Board and the Governing Body of the Council before finalisation.

(e) The proposal at present is to locate the station at Bangalore.

THE PARLIAMENTARY DEBATES

Acc. No.....25203
Dated.....24.11.2014

(Part II—Proceedings other than Questions and Answers)

OFFICIAL REPORT

HOUSE OF THE PEOPLE

Thursday, 10th September, 1953

The House met at a Quarter Past Eight of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair.*]

QUESTIONS AND ANSWERS

(*See Part I*)

9-15 A.M.

BUSINESS OF THE HOUSE

Shri A. K. Gopalan: (Cannanore): May we know when this session of the House will be over? It is said that it will be extended up to 24th. Will it be over by 18th or will it be extended up to 24th?

Mr. Deputy-Speaker: As far as I am aware, no request has been made either by the hon. Leader of the House or the Government for extending the session beyond the 18th. We are working to the schedule, and I am sure that the House will disperse on the 18th, and meet again after some recess.

PAPER LAID ON THE TABLE

REPORT OF INDIAN GOVERNMENT DELEGATION TO INTERNATIONAL LABOUR CONFERENCE

The Minister of Labour (Shri V. V. Giri): I beg to lay on the Table a copy of the Report of the Indian Government Delegation to the thirty-sixth session of the International Labour Conference held at Geneva in June, 1953. [*Placed in the Library. See* No. IV. R. O. (175).]

ESTATE DUTY BILL—*contd.*

Shri S. C. Samanta (Tamluk): Before you proceed further, I would request you to look into some serious irregularity that has crept in into the proceedings of this House, of yesterday.

Mr. Deputy-Speaker: The hon. Member should first of all draw the attention of the Secretary to the matter, and we shall take it up tomorrow. I shall look into this matter. I suppose there is no hurry.

Shri S. C. Samanta: On that question, you were to give your ruling.

Mr. Deputy-Speaker: What is that?

Shri S. C. Samanta: On page 7632 of the proceedings, we find that you had stated:

> "So, this amendment will be kept over. So far as the other amendments not relating to enhancement of the rate from Rs. 75,000 to Rs. 1 lakh are concerned, I shall put them to the vote of the House."

Here I find that amendments Nos. 137, 279, 139, 280, and 346 have also been put to the vote of the House.

Mr. Deputy-Speaker: What is the objection?

Shri S. C. Samanta: We find they are also to the effect of enhancing the

[Shri S. C. Samanta.]

rate from Rs. 75,000 to Rs. 1,25,000 or Rs. 1,50,000. How could they have been taken up, before the ruling was given?

Mr. Deputy-Speaker: The general direction was that those amendments which related to enhancement of the limit, or decreasing of the limit from Rs. 75,000 to Rs. 50,000 would stand over. There are some amendments which seek to increase the limit from Rs. 50,000 to Rs. 1 lakh, while there are some others which seek to decrease the limit from Rs. 50,000 to something below. Both these groups will stand over. If any error has crept in, I would only say that the hon. member is reading from an uncorrected copy of the proceedings; and so, it can be corrected.

The House will now proceed with the further consideration of the Bill to provide for the levy and collection of an estate duty, as reported by the Select Committee.

A point of order was raised regarding clause 37-A, and I believe the Chairman who was in the Chair wanted to reserve his judgment or decision on that matter. Unfortunately it is a long matter, and I was not present here, I am going through it as rapidly as possible, and I will try to come to a certain conclusion this afternoon. Meanwhile, we may proceed with the other clauses.

Shri Gidwani (Thana): Some news has appeared in a certain section of the Press, incorrect news that the exemption limit in the case of non-Hindu families is about Rs. 1 lakh. I would like it to be corrected.

Mr. Deputy-Speaker: If the Press publishes it, why should hon members who are Members here making the law themselves, depend upon it? After all, nothing can be passed in the House without the knowledge of hon. Members.

Shri Gidwani: I am referring to the general public, who have been given misleading news.

Mr. Deputy-Speaker: We have already disposed of clauses 38 to 42. As there are no amendments to clauses 43, 44, and 45, I will put them together to the vote of the House.

The question is:

"That Clauses 43 to 45 stand part of the Bill."

The motion was adopted.

Clauses **43** *to* **45** *were added to the Bill.*

Clause 46.— (*Cost of realising etc.*)

Shri Tulsidas (Mehsana West): I beg to move:

In page 24, lines 37 and 38,

for "not exceeding in any case five per cent. on the value of the property" *substitute* "the actual expenses incurred or ten per cent. on the value of the property whichever is lower."

This amendment relates to the expenses that have been put down as being the cost of realising or administering foreign property. The limit given in the clause is 5 per cent. My amendment seeks to increase it to 10 per cent. subject to the condition that either a sum not exceeding 10 per cent. or actual expenses should be taken into account, whichever is lower. The expenses for realising or administering foreign property may be higher than 5 per cent. I therefore feel that whatever expenses are incurred actually should be the allowance, or a sum not exceeding 10 per cent. of the value of the property, whichever is lower, so that there will be no double taxation to that extent.

I hope the hon. Finance Minister will accept my amendment.

Mr. Deputy-Speaker: Amendment moved:

In page 24, lines 37 and 38,

for "not exceeding in any case five per cent. on the value of the property" *substitute*. "the actual expenses incurred or ten per cent. on the value of the property whichever is lower."

The Minister of Finance (Shri C. D. Deshmukh): This is a matter of judgement as to whether five per cent. is enough, or 10 per cent. is necessary. It is not as if the hon. member has said that any cost that may be incurred may be allowed. He himself thinks it advisable to put a limit. The question therefore is whether 5 per cent. is more appropriate or 10 per cent. We are still thinking that with reasonable care, it should be possible to keep the additional costs on administration in the foreign territory, to 5 per cent. Therefore, I am not able to accept the amendment.

Shri Tulsidas: If the expenses are lower than 5 per cent. then they are covered by my amendment.

Shri C. D. Deshmukh: That is also covered by the main clause which says "not exceeding five per cent."

Shri Tulsidas: But if the expenses will go up to 7 per cent. what is to happen?

Shri K. K. Basu (Diamond Harbour): It is only a directive principle.

Mr. Deputy-Speaker: Need I put this amendment to the vote of the House?

Shri Tulsidas: Yes.

Mr. Deputy-Speaker: The question is:

> In page 24, lines 37 and 38,
>
> *for* "not exceeding in any case five per cent. on the value of the property" *substitute* "the actual expenses incurred or ten per cent. on the value of the property whichever is lower."

The motion was negatived.

Mr. Deputy-Speaker: The question is:

> "That clause 46 stand part of the Bill."

The motion was adopted.

Clause 46 was added to the Bill.

Clause 47.- -(*Allowances for duty etc.*)

Shri Tulsidas: I beg to move:

In page 24, *for* clause 47, *substitute*:

> "47. *Allowance for duty paid in a non-reciprocating country.*—Where any property passing on the death of the deceased is situate in a non-reciprocating country and the Controller is satisfied that by reason of such death any duty is payable in that country in respect of that property, the Controller, shall deduct from the Indian estate duty payable a sum equal to the Indian duty or the foreign duty on such property, whichever is the less.
>
> *Explanation*: In this section, the expression 'non-reciprocating country' means any country other than India which has not been declared to be a reciprocating country for the purpose of this Act."

Clause 47 relates to allowance for duty paid in a non-reciprocating country, and reads:

> "Where any property passing on the death of the deceased is situate in a non-reciprocating country and the Controller is satisfied that by reason of such death any duty is payable in that country in respect of that property, he may, subject to such rules as may be made by the Board in this behalf, make an allowance of the whole or any part of the amount of that duty from the value of the property."

What I have inserted is that instead of having the Controller's discretion whatever duty which is paid there outside the country, should be allowed. In the Income-tax Act which was recently amended, that tax which is paid outside the country is deducted in the country from the tax which is payable here because the whole of

[Shri Tulsidas.]

the income—the world income—is computed together and, therefore, the whole income is taxed and reduction given to the extent of whatever duty is paid outside the country. So in the case of property which is taxed in a foreign country, at least it is fair and equitable that that much duty should be deducted from the duty which is payable here. The whole of the property will be included together. I am applying the same principle as in the Income Tax Act. I do not see any reason why the Controller should be given a discretion to deduct whatever he thinks necessary. This is rather very inequitable and unfair.

Shri C. D. Deshmukh: I think, the hon. Member is under some misapprehension. The Controller has to determine what portion is not to be assessed or collected in order to make an allowance. But his action will be subject to the rules to be made by the Board. Therefore, whereas the quantum is determined by the Controller, as in other cases, subject to whatever remedies are permitted against his determination, the rules in regard to double taxation avoidance are made not by the Controller, but by the Board. Now, our position is that we hope that after the passing of the Bill we shall be able to negotiate double estate duty avoidance agreements with other countries. If we find that that is not possible, then we shall have to consider the question of unilateral relief and we shall then make the rules which will be laid before the House. And if we find that equity demands it, then we shall not hesitate to give retrospective effect to the operation of such rules. In view of this assurance, I do not think it is necessary for the hon. member to press this amendment.

Shri Tulsidas: Sir, I withdraw my amendment.

Mr. Deputy-Speaker: The question is......

Shri S. S. More (Sholapur): What about permission for withdrawal?

Mr. Deputy-Speaker: I have not put it before the House. I will treat it as not moved.

The question is:

"That clause 47 stand part of the Bill."

The motion was adopted.

Clause 47 was added to the Bill.

Clause 48. (*Relief from estate duty etc.*)

Shri C. D. Deshmukh: I beg to move:

In page 25, *for lines* 5 *and* 6, *substitute:*

"Provided that the total amount of such reduction shall in no case exceed that amount which would have been paid by way of court-fees if the rates under the law in force on the 1st day of September 1953, in the relevant State had been applicable to the grant of probate, letters of administration or succession certificate, as the case may be".

Shri Tulsidas: I beg to move:

In page 25, *omit lines* 5 and 6.

Shri C. D. Deshmukh: Sir, my amendment is a short one and I think it would be best if I read it.

In page 25, *for* lines 5 and 6, *substitute:*

"Provided that the total amount of such reduction shall in no case exceed that amount which would have been paid by way of court-fees if the rates under the law in force on the 1st day of September 1953, in the relevant State had been applicable to the grant of probate, letters of administration or succession certificate, as the case may be."

Now, under the existing proviso to clause 48, the concession is limited to 1/6th of the estate duty payable. It has been said that this is an arbitrary choice. But we have to specify some kind of limitation because of our experience that court-fees are subjected to large fluctuations in States. Therefore, the question arises whether the limit that we have chosen is right or wrong. It has been urged that 1/6th is too small a concession—and maybe there is some force in the argument. Our objective is to ensure that the reduction to be made of the entire court-fees should be allowed. but there should be no room for enhancement of the court-fees. Therefore, we are attempting now to freeze the rates to those applicable on a specified date which. we have stated, is 1st September 1953. We hope, therefore, that the States will not raise their fees to such an extent as largely or wholly to absorb the estate duty payable on estates. We think that will be achieved by this amendment.

Mr. Deputy-Speaker: I have got a small doubt which either the hon. Minister or any other hon. Member may clear up. Not only court-fees, but some stamp duty is collected on a succession certificate, probate etc. In all these cases, the court-fee is very small, say Re. 1. But then it is the stamp duty that has to be paid on the probate. Does the stamp duty come under the court-fees?

Shri K. K. Basu: That is according to the Court-fees Act.

Shri Dhulekar (Jhansi Distt.—South): What about lawyer's fee?

Mr. Deputy-Speaker: The certificate has to be engrossed.

Shri Raghavachari (Penukonda): It is court-fees only.

Shri K. K. Basu: 'Court-fee' means application fee......

Mr. Deputy-Speaker: My difficulty is this. I would like this matter to be cleared up either by the hon. Minister or by any other hon. Member. The court-fee on the application is a small one—say, Re. 1. Ultimately when the probate or the letters of administration or the succession certificate is granted, to my recollection it must be engrossed upon a non-judicial stamp paper, in which case it is the stamp duty that is the main portion and not the court-fee of Re. 1 which is a very insignificant portion.

Shri Raghavachari: The position is that the Court-fees Act prescribes the rate and the rule of the High Courts is that the amount should be deposited in the court. Later on, on a judicial stamp paper this will be engrossed.

Mr. Deputy-Speaker: The doubt is whether it can be called court fees.

Shri Raghavachari: It is court fees only.

Shri C. D. Deshmukh: Our intention is that it should be an inclusive term.

Mr. Deputy-Speaker: Court fees exclude stamp duty. If that is not the intention of Government, why not say 'court fee or stamp duty'?

Shri C. D. Deshmukh: We will consider that after we have had a look at the Court-fees Act. All I wish to say now is that we intend to use this in a comprehensive sense.

Mr. Deputy-Speaker: Is that assurance of the hon. Minister enough?

Shri Sinhasan Singh (Gorakhpur Distt.—South): May I submit another legal implication, Sir? In applying for probate, the client has not only to pay the court-fee but he has to pay something more by way of stamp duty and thereafter it is granted. Then he has to meet other expenses like lawyer's fee etc. There is some sense in allowing 1/6th reduction in the duty itself. But this is only court fee and it may amount to Rs. 5 or Rs. 10 or even 8 annas sometimes. So I would submit this amendment is taking away whatever benefit there was in the clause itself. All the necessary legal expenses that will have to be incurred in obtaining probate may be exempted.

Mr. Deputy-Speaker: I leave it to the House.

Pandit Thakur Das Bhargava (Gurgaon): This assurance of the hon. the Finance Minister will not be sufficient. When this provision is construed, then the question will arise whether stamp duty is part of court-fees. Stamp duty is levied on the value, on the amount involved in an application for probate or letters of administration. So it is necessary to include stamp duty etc. at least stamp duty if not legal charges. Legal charges should also be a part of it.

Shri N. Somana (Coorg): Mr. Deputy Speaker, Sir, I rise to oppose the amendment moved by the hon. the Finance Minister and support the amendment moved by Mr. Tulsidas. My reason is that it is not fair that any difference should be made between the actual fees paid and deduction allowed under this Act. If we delete the proviso, the clause would show that the actual fees that have been paid will have to be deducted. Sir, I think it is equitable that the actual fees that are paid should be deducted and no proviso should be added to this clause. I hope the hon. the Finance Minister will kindly consider this matter, because it is not a question of trying to avoid any payment. The actual expenditure that is incurred by the legal representative or the person who succeeded to the property of the deceased must be allowed in all equity. I, therefore, feel, Sir, that this proviso must be deleted and the section should remain as it is.

Shri Tulsidas: I have moved my amendment No. 160, and as my hon. friend Mr. Somana has just now said, I would like to tell the hon. Finance Minister that after all the probate duty or succession duty is also levied by the State Governments and this duty is also going to the States. Therefore why should there be this limit? Whatever duty is levied must be exempted. Why should there be a limit of one-sixth or the 1st of September, 1953? I do not see any reason for that if you are to be fair and equitable. It is the States that are going to levy and why should there be any double taxation?

Shri N. C. Chatterjee (Hooghly): Sir, there is considerable force in the suggestion for deleting the proviso. Supposing, Sir, we have to amend the Court-Fees Act or the Stamp Act to increase the duty payable. Surely the estate of the man who has died is going to be taxed. How much will you tax? Let us fix a ceiling and say that the heirs and successors and legal representatives would be saddled with so much liability. It would not be fair to say: "if there is any increase of duty by the States or increase of Court-Fees by the States in pursuance of the legal competency or legal authority that is vested in them under the Seventh Schedule, to the Constitution." That will not be fair to the successors and legal representatives of the deceased. I think, Sir, this proviso should be deleted and I hope the hon. Finance Minister will accept the suggestion. Do not limit it to 1st September, 1953. If there is any further legislation modifying or increasing the court-fees or the stamp duties, it is really a charge upon the estate on which the duty is being levied by the State—it does not matter whether the State Government is levying or the State Legislature is levying it—and it would not be right, Sir, to saddle the estate with a multiplicity of taxes or duties or levies.

Shri Raghavachari: On a point of information, Sir. I find that almost every recommendation of the Select Committee is being modified or altered by the amendments proposed. Is there any sanctity or value to the Select Committee if everything is sought to be modified later on by people who were parties to the Select Committee?

Mr. Deputy-Speaker: I quite understand that. So far as persons who are parties to the Select Committee are concerned, they have really got an opportunity to write out their minutes of dissent for the reason that they want to place before the House what exactly their view-point is which is not accepted by the Select Committee. Ordinarily, there is no purpose in referring the matter to a Select Committee if the same persons who are parties to the Select Committee, whether Government or other members, go on moving amendments. Then the whole object of the Select Committee is useless. Exceptional cases may arise. Any member who is not a member of the Select Committee can table amendments because he is not a member of the Select Committee. But, again and again, I find that members who were parties to the Select Committee and who have not written any minutes of dissent and which the Select Committee had no opportunity to consider, table amendments. Except where they are formal matters or clerical errors, normally that policy ought not to be adopted.

Shri C. D. Deshmukh: I do not quite follow the implication, Sir.

Mr. Deputy-Speaker: My point is that even the Finance Minister who was a member of the Select Committee had ample opportunities to place his viewpoint or the viewpoint of the Government before the Select Committee. It is a Select Committee of the House and not a Select Committee of the Government. The object of a reference to the Select Committee is to have matters thrashed out from whichever side the points may be urged before the Select Committee and every hon. Member who wanted to place a particular matter before the Select Committee had an opportunity to do so. If he did not agree with the opinion of the Select Committee it is open to him to indicate it to the House by way of a minute of dissent. That applies not only to the other members of the Select Committee but also to the Ministrs. I would therefore say that normally, except where it is a slip or otherwise, the Minister or the member shhuld be able to justify before the House why he did not press it before the Select Committee. I would normally say that that matter ought not to be placed before the House. I would not say that this is a ruling which I give on a point of order but this must be considered a convention which ought to be observed on all sides by members who are members of a Select Committee

Shri C. D. Deshmukh: With due respect there are certain considerations which I would like to place before you. One is, some time has elapsed between the presentation of the Report of the Select Committee and the consideration of the Bill. And, in the meanwhile a large number of representations have been made to Government on a hundred and one matters. Now, all these matters did not occur to us. Representations were made by people who are likely to be vitally affected by this Bill; they included Chambers of Commerce, Stock Exchanges, Associations of all kinds, individuals and so on, and even from Law Societies who are a sort of dispassionate people, people who try to be helpful. If we were to say that we should have thought of all these things and we should have given minutes of dissent, then I think we should be putting a kind of rigid impediment in the way of the proper consideration of the enactment of such an important measure.

Secondly, Sir, it was stated in the last session of the House that I should take the opportunity of meeting members who have given notice of amendments with the object of attempting to abbreviate the course of discussion. And, I certainly left the House with the impression that that had the approval of the Chair as well as the other members. It was in accordance with that that we held about 4 meetings with members and we had a full and frank discussion across the table. Now, that did not intend any disrespect to the Select Committee. But, it was in an anxiety to secure, as far as possible, a harmonious and smooth consideration of the Bill in the House and I am of the impression that those discussions have been very valuable. You must have observed, Sir, that the tone of discussions in a measure of this kind has been excellent; it leaves noth-

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ing to be desired and members of all parties have moved their amendments with restraint and sobriety which is difficult to be paralleled even in this House which is a sober House. In the course of the general discussion, I was forced to the conclusion that there was a good deal of sense in what certain hon. Members suggested and I tried to meet them.

Now, Sir, unless you intend otherwise, the effect of this ruling will be that I shall be forced to have a very closed mind since I put my signature to the report of the Select Committee. I consider, Sir, that that would not be in the interests of all—I am speaking for myself and I do not know what the opinion of other hon. Members is. I do consider, Sir, that I shall be charged with having a too very close mind on such an important piece of legislation.

Shri Raghavachari: I only wish to state, Sir, that in view of the conventional understanding that members of the Select Committee cannot have anything to do except follow the recommendations of the Committee, many of us could not give amendments at all varying the terms or recommendations of the Select Committee. That is one thing.

Secondly, if certain representations came as time elapsed between the original report and its being taken up for consideration in the House, and the whole matter was of so much importance then the best course would have been to re-commit the Bill to the Select Committee where it could have been discussed for a day or two. It would never have really meant any discourtesy to the Select Committee. That is the proper procedure that should have been adopted rather than saying "well something has happened. Therefore Sir, we cannot accept the amendment." That is my submission.

Mr. Deputy-Speaker: Really this cannot be an absolute rule that merely because it was not placed before the Select Committee the hon. Minister ought to give his consent. I agree. Those hon. Members or the Government or any other institute or Chamber of Commerce had ample opportunity to make representations to the Minister. Unless it is a very important matter which could not have been thought of in the Select Committee any one of those amendments may be given. It is not a closed mind but then there is no purpose in having the Select Committee. That is my feeling. Let me split it into two portions. The hon. Finance Minister's portions may bring in something but with respect to the objection the court fees must be a particular thing.

Shri C. D. Deshmukh: If this is an attempt to give a concession I am quite prepared to withdraw my amendment and to oppose all other amendments.

Shri Gadgil (Poona Central): May I say a few words? What you have said is the normal situation but it was pointed out by the hon. the Finance Minister that there may be certain considerations arising subsequently and not present when the Select Committee had its meeting. It should be open not by way of a general rule but by way of an exception that some times amendments should be moved. Therefore, what he has suggested by the new proviso is a concession and not something which is very restrictive in its nature. You may treat this not as normal but by way of an exception and allow Government to move the amendment.

Shri S. S. More: I would draw your attention to paragraph 1 on page 2 of the Select Committee's report. As a matter of fact the paragraph refers to so many representations which were received by the Select Committee and which were gone into by the Select Committee.

All these documents ought to have been circulated for the information of members. We do not know what representations were made by different vested interests and to what points the Finance Minister is so easily yielding. If he had received certain representations to which he is trying to be so responsive, we must at least know what are the documents that are having such a straight influence on his mind. All these documents ought to have been circulated to us.

Shri C. D. Deshmukh: Not all.

Shri N. C. Chatterjee: They are not always the vested interests that are making representations. They were absolutely dispassionate, as you know. They were pointing to the working of the scheme and the machinery that is going to be set up. They were doing that in a co-operative spirit. It is not fair to the Finance Minister saying that you are yielding to the voice raised by the vested interest.

Shri S. S. More: I am talking about the general attitude towards the Members. We do not know so many things.

Mr. Deputy-Speaker: So far as the circulation of the Memoranda to the Select Committee by various institutions is concerned, if any hon. Member had expressed a desire to circulate it I would have got these particular things circulated but so far I have received no request from any hon. Members nor do I know of any desire on their part. That is always open to the Speaker to allow saying these are the representations that have been made.

So far as the other point is concerned, I naturally agree with Mr. Gadgil. This is not a general rule that nothing shall be moved after the report of the Select Committee. As a matter of fact the spirit of accommodation, trying to adjust matters in order to avoid any kind of misunderstanding must be there. What happened in the Select Committee must also be taken into account as far as possible. Now, therefore, let it not be barred. There must be exception to the circumstances which have arisen and which could not have been anticipated at the time of the Select Committee. Or even if they were communicated to the Select Committee, it might be necessary that the Select Committee's opinion ought to be changed. It is not sacrosanct; it is an advice to the Parliament. But I am anxious to avoid an impression being created that the Select Committee can be kept in the dark. There is nothing in it if we go on introducing amendment after amendment. If I emphasize this rule it is only for the purpose of avoiding the creation of a wrong impression.

Shri C. D. Deshmukh: Sometimes in answers to minutes of dissent after the report has been sent. Government has to consider, even if they are minority members, the new point which they think it was worth while incorporating in the minute of dissent.

Mr. Deputy-Speaker: If an hon. Member had possibly raised the point before the Select Committee they would have accepted it. Therefore, a minute of dissent must be confined only to those points which were raised by the hon. Member which he feels that the Select Committee was wrong in not accepting them. Therefore, he wants them to be placed before the House.

Shri C. D. Deshmukh: If he puts the point before the House are the majority Members barred from reviewing the matter?

Mr. Deputy-Speaker: I am only referring to the hon. Member who is a Member of the Select Committee.

Shri C. D. Deshmukh: I am talking of Government going over the minute of dissent in their anxiety to reconcile a conflict.

Mr. Deputy-Speaker: I am not laying down any rigid rule.

Shri C. D. Deshmukh: Some clauses have been inserted for the first time by the Select Committee, like Clause 80. That clause has given us a lot of trouble with stock exchanges and the associations and so on. It is not a case of ignoring them. Indeed as they are very important sections of the

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community we are bound to consider what they have to urge in regard to a new point. Therefore, your observation that the whole Bill and the Select Committee Report has been before the public for a long time really does not apply because any one new clause of that kind cannot be inserted by the Select Committee itself.

Mr. Deputy-Speaker: It can do so on account of the representations and the Memoranda since received by it over the head of everything. in such exceptional cases.

Shri Punnoose (Alleppey): In view of what you said just now, am I to understand that a new point which a member felt did not come into the consideration of the Select Committee should not be mentioned in the minute of dissent?

Mr. Deputy-Speaker: It is not a general discussion. You cannot dissent from another person before whom you did not place this matter at all The minute of dissent implies that this matter was discussed and between him and the other Members of the Select Committee there was a difference of opinion. Let us proceed further. This is a general rule. This has not barred hon. Members from moving amendments. I am only appealing to those who are members of the Select Committee that this convention may be adopted without prejudice to amendments which are necessary on matters that are represented either on the floor of the House or outside which could not have been easily anticipated. I only want to emphasize the position that whenever a member of the Select Committee accepts any particular amendment he must always treat it as an exception.

Pandit K. C. Sharma (Meerut Distt. —South): With all respect to the ruling of the Chair. I beg to submit that a responsible Government must need be a responsive Government. It must be responsive at every stage when the question is being discussed either in the House or outside the House or whenever a dispute arises or when a public voice is raised in favour of or against a particular measure. The Finance Minister being a Government representative cannot afford to remain un-moved simply because he has taken a certain stand in the Select Committe. He cannot afford to have that view.

Mr. Deputy-Speaker: On the other hand, if hon. Member has tabled a motion, let him place it before the House. Let hon. Members consider it and then say for or against. There is no meaning in saying that anything over the head of the Select Committee can be accepted. There is absolutely no rigidity about the rule. The hands of the Finance Minister or the Government are not tied; merely because it is the Government or the Finance Minister, let it not be said he can go on accepting and introducing any amendment which he did not place before the Select Committe, though he had an opportunity to do so. I do not want to make a discrimination in favour of the Government merely because it is the Government, but there must be some latitude allowed to the Government, for, the Government being the sponsor of the Bill, it must consider the various views placed before it. These are general observations, but there is no absolute rigidity. But as far as possible, Members of the Select Committee, if they do not want to have something agitated in the House, must express it in the minute of dissent, unless they come by some things which they could not have reasonably anticipated. So far as Government are concerned, they may also always react to any proper representations which might not have been made in the Select Committee.

Shri Dhulekar: Sir, on a point of order. All this is happening because from the very beginning when the Select Committee is formed, on the very first day, when the consideration stage comes, the Select Committee Members begin to speak and they are allowed to speak. We persons who are not in the Select Committee are not also allowed to speak at the consideration stage. Then, when it goes to the Select Committee, and again when the Select Committee proceedings come here and the report is presented, the Select Committee Members begin to speak, and those people who ought to consider this, ought to place their point of view,—they are not permitted to speak Even when we are putting before you our applications, we are not heard. Again, amendments are put in by the Select Committee Members, again discussion goes on, and we Members are only considered as persons belonging to the gallery. The point of order is that these Select Committee Members who had ample opportunities, should have no other opportunity of putting in their amendments. Our amendments, our views, should be taken. We are not Members who are simply to raise our hands. Why should these Select Committee Members take time and do it again? So, I raise it as a point of order that from the next time, whenever any Select Committee is formed, the convention that no Select Committee Member should be allowed to be permitted to speak on the floor of the House at the cost of we Members who are not Select Committee Members, should be followed. That is my point of order.

Mr. Deputy-Speaker: So far as the point of order is concerned, the hon. Member has not correctly appreciated the procedure that has been adopted, regarding even the non-official Members whose names are put down in the Select Committee. When once names of Members are put down in the Select Committee—I mean in the motion for the Select Committee —the usual practice is, but for exceptional cases, Members whose names are put down in the Select Committee have not been allowed an opportunity to speak. That is their complaint. I do not know wherefrom the hon. Member has drawn all those things. I do not know whether he has tabled any amendment. I am coming every day and I have been sitting here, and I do not find in the order paper any amendment with respect to which he may be so eloquently angry either with the Chair or with the House—not an amendment moved or tabled or even represented. Therefore, it is very wrong—the hon. Member may have language—it is wrong to attribute motives. We have been following a particular procedure. The procedure is that Members whose names have been put down for the motion of the Select Committee have not been allowed an opportunity. They were ready to hear as much as possible from other Members. That is the position. For six days, the hon. Member had an opportunity to speak. I do not know if he has spoken at all.

Shri C. D. Pande (Naini Tal Distt. *cum* Almora Distt.—South West *cum* Bareilly Distt.—North): He has spoken very well. (*Laughter*).

Mr. Deputy-Speaker: There is no need for laughing over this; making all sorts of remarks contrary to the practice and then laughing over them would not be proper. I would urge upon the hon. Member to withdraw all that he has said so far as the procedure of this House is concerned. After the report comes from the Select Committee, we allow opportunities to the Members of the Select Committee who have written to explain their position when they are attacked. They have to stand by what has been done in the Select Committee. Other hon. Members who have appended notes of dissent must be given an opportunity to convince the House, if they have not been able to convince the Select Committee. When it is a question of amendment, we take it up, irrespective of the question as to whether it comes from the Select Committee or not

10 A.M.

With respect to the other point raised that Members of the Select Committee go on tabling amendments, as I said, this is the convention that Members should observe without a sense of its being right or wrong. It is not a point of order. It is not a rule. As

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far as possible, Members of the Select Committee, unless there are exceptional circumstances on matters which have come to the House in days later on,—in view of what has happened later,—speak on their amendments. It is flexible, but it is more flexible in the case of Government, because it has to react to various representations that are made and also it is the sponsor of the Bill—whether on the part of the Government or on the part of the non-official side. Within that latitude a kind of convention may be observed that Members of the Select Committee ought not to take up matters of a normal nature which have not been placed before the Select Committee. It is open to the other Members to accept the recommendations of the Select Committee or not, and table amendments. These are the principles which I would like to place before the hon. Members to be kept before their mind's eye. Barring that, there is no rigid rule that I am adding to the procedure. This is a convention that may be usefully adopted. So, I do not think there is any justification for the remarks that Mr. Dhulekar has been making against the House or any Member of the Select Committee at any stage. He need not withdraw. I have said this much.

Shri Dhulekar: I never meant any disrespect.

Mr. Deputy-Speaker: Whether you meant or not, that is what is meant.

Shri Tulsidas and Shri Raghuramaiah *rose*—

Mr. Deputy-Speaker: Now, I find from the language "court-fees" also, in whatever form, it is still called court-fee. Therefore, there is no justification.

Shri C. D. Deshmukh: The substantive part of this clause refers to court-fees—"have been paid....for obtaining probate, letters of administration or a succession certificate." So it covers.

Mr. Deputy-Speaker: There is a law relating to "court-fees" but all the same it is "court-fess". I do not think there is any difficulty on this ground.

Shri Raghuramaiah (Tenali): The law relating to court-fee naturally makes a distinction between the fee that is payable by way of court-fee and the fee that is payable by way of stamp duty. So, it may be necessary to group the words 'stamp duty' so as to leave no doubt whatever that it includes stamp duty.

Mr. Deputy-Speaker: I am afraid, so far as that point goes, the Court-fees Act—Section 19A—says:

> "Where any person on applying for the probate of a will or letters of administration has estimated the property of the deceased to be of greater value than the same has afterwards proved to be, and has consequently paid too high a court-fee thereon,"

Court-fee is paid, but it is converted into stamp duty. So, whatever is paid for the purpose of obtaining probate, letters of administration or a succession certificate, it is the money that has to be deposited. It is called court-fee.

Pandit Thakur Das Bhargava: It is 'fees', fees under any law relating to court-fee.

Mr. Deputy-Speaker: The amount shall not be refunded. If it is one rupee, there is no question of refunding one rupee.

Shri Gadgil (Poona Central): The usual practice is that the applicant values the property and on the prescribed date deposits the amount. When the letters of administration or probate are granted, then out of the money deposited, stamp is purchased and the probate or the letters of administration are given.

Shri K. K. Basu (Diamond Harbour): On the payment of the duty, the court certifies that duty has been paid—that is put in under the Court-fees Act and under the Indian

Stamp Act. So, I think 'court-fees' will cover the term.

Shri C. D. Deshmukh: But the point is, we do not want to include the lawyer's fees.

Mr. Deputy-Speaker: The hon. Minister is against lawyers.

Shri C. D. Deshmukh: No, Sir. I belong to a family of lawyers.

Shri Gadgil: His father was a very eminent lawyer.

Mr. Deputy-Speaker: The hon. Minister is himself a barrister.

Pandit Thakur Das Bhargava: "Court-fees and other legal expenses." Because, under the law, a formal order always follows the judgment. Why not it be added?

Mr. Deputy-Speaker: Why did not the hon. Member table an amendment of that kind?

Pandit Thakur Das Bhargava: Because the matter has come up just now, Sir.

Shri Raghuramiah: The other question relates to the proviso in the existing clause which has been referred to by Mr. Chatterjee. I think there is a good deal of force in that. We are trying to limit the exemption to one-sixth of the duty paid by way of court fees. That will be very unfair, Sir, because I do not know whether the other proviso would remain in the Bill. If that is withdrawn what would be done is to limit it to the rate payable on 1st September. Suppose a subsequent enactment increases the court fee an increased rate will have to be paid. Tomorrow any State may increase the fee payable under the Court Fees Act. After all it is paid in respect of the same succession. That would amount to double taxation. In fact it would be better not to press this amendment at all and then to omit also the original proviso which would if course mean an independent amendment by the Government omitting the proviso. I would request the hon. the Finance Minister to consider that point.

Shri C. D. Deshmukh: Sir, the income from court fees as well as the income from estate duty goes to the State—that point was made. Now the revenue from court fees of course goes direct, because it is levied by the State. The revenue from estate duty has to be distributed in accordance with principles to be laid down by an Act of Parliament. Therefore, we cannot equate completely the loss and gain of any particular State. That is my answer to this particular point raised: why should we bother about this, because, in any case, the revenue goes to the State. I am not quite sure at the moment how the revenue under the Estate Duty Act will be distributed.

Mr. Deputy-Speaker: But no portion is to be taken by the Centre.

Shri C. D. Deshmukh: I do not know if it might go to some other State. All I say is that Parliament has to apply its mind to its way of distribution.

Mr. Deputy-Speaker: Does the hon. Minister feel that estate duty from Bombay can be given to Madras?

Shri C. D. Deshmukh: I would go so far as to say that the probability is that income arising in a particular State will go to that State. But the uncertainty creeps in on account of aggregations and so on.

This amendment, Sir, falls within the general principles enunciated by you because it was an attempt to meet half way the minute of dissent: the minute of dissent says that the proviso should be entirely dropped. All we say is that we feel now that one-sixth perhaps might be too harsh and a larger deduction might be made. I am not very keen on this point. It may be that if we find that there are increases in court fees and there is some method of distribution which involves some kind of injustice to some State, it would be possible for us to amend this particular section,—perhaps restore the proviso in some other form. So, I do not mind accepting the amendment of Shri Tulsidas Kilachand.

Mr. Deputy-Speaker: The question is:

In page 25, *omit* lines 5 and 6.

The motion was adopted.

Mr. Deputy-Speaker: The amendment moved by the Finance Minister is barred.

The question is:

"That clause 48, as amended, stand part of the Bill."

The motion was adopted.

Clause 48, as amended, was added to the Bill.

Clause 49.— (*Method of collection of duty.*)

Shri Tulsidas: I beg to move:

In page 25, *for* clause 49, *substitute*:

49. *Method of collecting of duty.*—Estate duty may be collected by such means and in such manner as the Board may prescribe, and in particular

(i) where payment of estate duty is offered in terms of trustee securities, such securities shall be accepted at the valuation taken for estate duty purposes;

(ii) where a person accountable offers to-wards payment of estate duty any part of the estate at the valuation adopted by the Controller for that part of the property, the Board shall accept the property at that valuation in payment of the duty."

Shri Pataskar (Jalgaon): I beg to move:

In page 25, line 9, *for* "Board" *substitute* "Government".

Shri N. C. Chatterjee: I beg to move:

In page 25, *after* line 9, *insert*:

"Provided that the Board may, if it thinks fit, on the application of any person liable to pay estate duty in respect of any immovable property, accept in satisfaction of the whole or any part of such duty such part of the property as may be agreed upon between the Board and that person."

My amendment is somewhat modest.

This clause is a very extraordinary one and has created a lot of apprehension in the minds of taxpayers generally. Look at the wide language: "Estate duty may be collected by such means and in such manner as the Board may prescribe." It is completely left to the Board practically to determine how the estate duty will be collected. From the point of view of persons liable to estate duty this is perhaps the most important clause and it may work great hardship. Though the manner and means of paying estate duty might be determined by the Central Board of Revenue generally, it is desirable that certain specific provisions should be made for facilitating payment of duty and for relieving hardships in payment.

Now, Sir, you know that there will be very many middle class families who would be affected by this estate duty legislation. Particularly in the case of properties, or estates which have got one dwelling house and practically no cash, there may be forced sale and forced sale under pressure put by the Board will frequently be disastrous, if not ruinous to the family. Therefore I am suggesting that payment of duty in kind should be permissible and recognised by the Act. I have taken the language of my Act from section 56 of the United Kingdom Act. Section 56, sub-clause (1) of the Finance Act of 1910, as amended by section 49 of the Finance Act of 1946 and the Finance Act of 1949 practically lay down the same thing.

In the English law it is prescribed that the Commissioners may, if they think fit on the application of any person liable to pay any death duty, accept in satisfaction of the whole or any part of such duty such part of the property as may be agreed upon between the Commissioners and the accountable person. This is a great safeguard, because this will also be a check, a salutary check, a proper check, against over-valuation. Therefore, I am submitting for the consideration of the House that this kind of arrangement should be made; otherwise forced sales, particularly of dwelling houses will be very detrimental to the poor families and unless you make such provision the revenue authorities may say that they have no authority to accept payment in kind. It won't be unfair to the exchequer, because the language is "the Board may, if it thinks fit, accept in satisfaction of the whole or any part of such duty such part of the property as may be agreed upon between the Board and the person who is liable to pay the estate duty in respect of a particular estate." Therefore, the Board has got the determining voice. But some such provision is necessary because that will also act as a salutary check against over-valuation. After years of experience England has got it and we should copy the English law in this case. I wish to point out, Sir, that when this power was taken, they found that this type of payment of estate duty in kind in England was salutary both from the points of view of revenue and the tax-payer. The Chancellor of the Exchequer informed the House of Commons that he expected that this power would in future be exercised by the revenue authorities on a substantial scale. This assurance given by the Chancellor of the Exchequer to the British House of Commons has been worked out in practice and that has been a very salutary thing and I submit, Sir, that what has happened in England where people have got more experience and who are much richer, should also apply here where the standard is not so high and the people will not have the means to pay. This is, Sir, in no way unfair either to the tax-payer or to the revenue authorities and this clause, which I have suggested in conformity with Section 56 of the U.K. Finance Act of 1910, as amended by later legislation, should be accepted, in my humble opinion. We have always been saying that we should march ahead with progressive democratic countries. I hope, Sir, the Finance Minister would be good enough to accept this suggestion and incorporate it in the Bill.

Shri S. S. More: I rise to oppose the amendment moved by Mr. Chatterjee. What is the objective of the present measure? I would like you, Sir, to refer to the statement of objects and reasons on page 28 of the original Bill that was introduced in this House, which clearly indicates the main purpose for which this duty is being levied. We have started a Five Year Plan and the different States have started different schemes and we are asked to find huge sums, but we are short of liquid assets. This estate duty is supposed to be designed to place a large amount of liquid funds in the hands of the different States in order to finance their various schemes. Supposing, Sir, this particular amendment is accepted, what will be its effect? Possibly, many persons who have got in their possession inconvenient properties, will approach the Board in order to get rid of such properties—possibly dilapidated properties which are even beyond repair and which will require some more money for maintenance. What can the Government say? Under this provision, if accepted, the Government in the process of time, will come to own properties in different scattered areas and they will have to find money for their maintenance and repair, and the result will be that all the liquid assets of the State Governments will be frittered away in the upkeep of these properties. Personally I feel—I do not want to raise

[Shri S. S. More]

it as a point of order—that this particular amendment is beyond the scope of the Bill itself, because the scope and the main purpose of this Bill is to secure liquid funds for the State.

Again the Controller may estimate the value of the properties at a higher level than they are actually likely to fetch in the open market and the result will be that Government will have to accept that price although in the open market the property will be fetching less price. To that extent Government will be losing. Properties go on changing their prices according to the fluctuations of the market, and depression conditions in the country go on lowering the prices and the result will be that Government in course of time will lose as the prices will automatically go down day by day.

There is another implication also. I would say that the person who is supposed to be subject to this levy may take his chance in the open market if the conditions are such that he might get higher prices, but you know, Sir, that the market conditions are manipulated by the rich investors. My submission is that Government should not be made to hold all the ugly babies that the capitalists will bt finding incovenient to hold and for this purpose I oppose very strongly this amendment.

पंडित ठाकुर दास भार्गव : जनाब डिप्टी स्पीकर साहब, जहां तक कि इस अमेंडमेंट का ताल्लुक है, यह अमेंडमेंट ख़ासी माडेस्ट है और यह अमेंडमेंट अख्तियार देती है बोर्ड को कि जिन सूरतों में बोर्ड की मरज़ी हो, बोर्ड मुनासिब समझे, तो ऐसा करना दुरुस्त होगा। उन सूरतों में बोर्ड अगर चाहे तो ऐसी प्रापर्टीज को ले। मगर मोरे साहब का जो ख़्याल है वह एक हद तक तो दुरुस्त है कि अगर कंट्रोलर ऐसा करप्ट हुआ कि उस ने ओवरवैल्युएशन काफी कर दिया...... ।

Shri S. S. More: Not out of corrupt motive but by *bona fide* mistake.

पंडित ठाकुर दास भार्गव : अगर बोनाफाइड' मिस्टेक है तो मिस्टेक का फायदा सबजैक्ट को मिलना चाहिये। अगर फिलवाक़ै कोई मिस्टेक हुई है, अगर मेरे पास जायदाद है ५० हज़ार की, जिस की क़ीमत कंट्रोलर ने एक लाख लगा दी है और उस पर टैक्स लेना चाहता है तो यह बिल्कुल फेयर है कि मैं यह अर्ज़ कर सकूं कि जिस क़ीमत पर आप ने मेरे ऊपर टैक्स लगाया है, उस पर आप उस जायदाद को ले लीजिये। अगर इन्साफ़ की निगाह से देखा जाय तो मिस्टर चैटर्जी की अमेंडमेंट ओवर माडेस्ट है, क्योंकि यह तो सिर्फ़ बोर्ड को अख्तियार देती है। अगर इन्साफ़ के तक़ाज़े से देखा जाय तो हर एक शख़्स जिस पर टैक्स लगे, उस को यह हक़ होना चाहिये कि अगर वह चाहे तो गवर्नमेंट से यह कहे कि जो क़ीमत आप ने लगाई है, मुझे तो वह मंज़ूर नहीं है, लेकिन चूंकि आप के एक हाकिम ने, गवर्नमेंट के शख़्स ने लगाई है, तो मैं यह अर्ज़ करता हूं कि आप इस को इसी क़ीमत पर ले लीजिये। यह बिल्कुल जस्ट होती अगर अमेंडमेंट यह होती कि जो कुछ असैसी के ऊपर क़ीमत लगी है, उस क़ीमत पर गवर्नमेंट मजबूर होती कि उस जायदाद को ऐक्सैप्ट करे। यह बिल्कुल जायज बात होती।

लेकिन इस के अन्दर चन्द दिक्कतें हैं जो हाउस को मजबूर करती हैं। इसलिये हाउस को कम से कम इस अमेंडमेंट को जो इस माडेस्ट फार्म में आई है, उस को मंज़ूर करना चाहिये। यह हो सकता है कि ऐसी सूरत में गवर्नमेंट के पास बहुत सारी जायदादें आ जायं। मुमकिन है कि गवर्नमेंट को एक ऐसा डिपार्टमेंट खोलना पड़े जिस में बहुत सी जायदादें आवें और वह जायदादें

खरीदे और बेचे। मगर जो दिक्कत मोरे साहब ने बतलाई है उसी ख्याल से चैटर्जी साहब ने जो अमेंडमेंट रखी है उस में महज़ बोर्ड को अख्तियार दे दिया गया है। असल सेक्शन के अल्फ़ाज़ यह हैं :

Estate duty may be collected by such means and in such manner as the Board may prescribe.

इस के अन्दर यह नहीं है कि हर सूरत में बोर्ड को यही तरीक़ा अख्तियार करना पड़ेगा और वह कोई दूसरा तरीक़ा बरत नहीं सकेगा। कि जिस की रू से वह जायदाद हासिल कर ले। अगर किसी के पास सिवाय मकान के कुछ नहीं है और वह उस मकान को देना चाहता है तो सरकार मकान को ले ले तो शायद वही बेस्ट तरीक़ा हो कि सरकार मकान को ले ले, फिर चाहे जो कीमत भी उस की लगे और चाहे जिस क़ीमत पर वह उठे, लेकिन जो क़ीमत लगाई गयी है उस पर सरकार को लेना उस का फ़र्ज़ होगा, चाहे उस में नफ़ा हो या नुक़सान।

यह क़ानून जो हम बनाने जा रहे हैं और जो अब तक हम ने पास किया है वह यह है कि : सारा अख्तियार बोर्ड आफ़ रेवेन्यू को है, हर एसेसी इन दी होलो आफ दी हैंड आफ़ दी बोर्ड है, और उस के अन्दर हम ने जुडीश्यल ट्रिब्युनल का कोई प्राविज़न नहीं रक्खा है। अगर उस में कोई जुडीश्यल ट्रिब्युनल जैसी इंडिपेंडेंट बाडी होती तो वह कह सकती थी कि यह टैक्स ठीक लगाया गया या नहीं लगाया गया। जहां तक वैल्यूएशन का ताल्लुक है, यह हम को तजुर्बा बतलायेगा कि वेल्यूएशन कहां तक इंडिपेंडेंट होता है या नहीं होता है। मैं अब से अर्ज़ करूंगा कि एक सब से बड़ी शिकायत और डर जो एसेसीज़ के दिल में है वह यह है कि कहीं सरकार हमारी इममूवेबुल जायदादों की जितनी क़ीमत लगाये, बेचने पर उस के उतने दाम भी न निकले और इस तरह पब्लिक कोनफ़िडेंस सरकार में से जाता रहेगा। मसलन्, एक जायदाद जिस की वैल्यू एक लाख रुपया लगायी गयी, और ओपन मार्केट में वह कुल बीस हज़ार में बिकती है, तो लोग सरकार में कोनफ़िडेंस लूज़ कर देंगे और ओपन मार्केट में उस जायदाद की केवल एक चौथाई या १/५ क़ीमत ही वसूल होगी और इस तरह यह पब्लिक स्कैन्डल हो जायगा। यह बहुत ज़रूरी है कि लोगों का गवर्नमेंट के ऐडमिनिस्ट्रेशन के प्रति कोनफ़िडेंस हो और इस के लिए यह ज़रूरी है कि इस क़िस्म का इस में कोई प्राविज़न किया जाय जिस की रू से हर एक आदमी यह महसूस कर सके कि उस को फ़ेयर डील मिली है, जो सास गांडर के वास्ते होना चाहिए, वही सास गूज़ के वास्ते भी होना चाहिए। एसेसी को यह महसूस कराना चाहिए कि उस के साथ इंसाफ़ बर्ता जायगा और उस की जायदाद का जो मुनासिब क़ीमत होगी, वही आंकी जायगी, और ऐसा होना भी चाहिए। मान लीजिये कि एक मकान के अन्दर चार-पांच हिस्सेदार होंगे, उन में से अगर एक भी एसेसी है तब शायद उनको इतनी हार्डशिप नहीं होगी, लेकिन उस हालत में जहां चन्द ऐसे एसेसी होंगे, किसी मकान में चार, पांच खानदान हैं, वह वैल्यूएशन मानने को तैयार हैं, उन में से एक आदमी टैक्स देना चाहे और दूसरा टैक्स न देना चाहे, तब वह मकान नीलाम किया जायगा और उस हालत में यह डर हमेशा बना रहेगा कि उस मकान की पूरी क़ीमत हरगिज़ वसूल नहीं हो सकेगी। मेरी राय में प्रापर केसेज़ में अगर बोर्ड उस मकान को उसी क़ीमत पर मान ले कि जो क़ीमत कंट्रोलर ने उस की लगायी है, तो यह निहायत मुनासिब होगा। बहुत सारे केसेज़ के अन्दर ऐसी शक्ल बन जायगी कि गवर्नमेंट एक प्रापरटी ओनिंग बाडी हो जायगी। गवर्नमेंट

[पंडित ठाकुर दास भार्गव]

सब से बड़ी प्रापरटी ओनिंग जमाअत है, इस में कोई शक नहीं है कि गवर्नमेंट की प्रापरटीज बहुत ज्यादा हैं। और इस में हर्ज भी क्या है, अगर इस तरह बड़े बड़े शहरों मसलन् कलकत्ता, बम्बई वग़ैरह में जायदादें सरकार को मिल जांय, तो इस से अच्छी बात और क्या हो सकती है, आप की हाउसिंग प्राबलम बहुत हद तक साल्व और ईज हो जायगी। लेकिन ज्यादा डर मुझे मुफ़स्सिल का है, कंट्रोलर की क़ीमत हर सूरत में उस से बहुत ज्यादा होगी जो ओपन मार्केट में होगी और मैं इस वजह से चाहता हूं कि यह पब्लिक और एजेंसी दोनों के इंटरेस्ट में है कि उस का ओवर वेल्युएशन न हो सके, इस वास्ते मैं अदब से अर्ज करना चाहता हूं कि कम से कम इस माडेस्ट अमेंडमेंट को तो जरूर मंजूर करें और इस के मंजूर करने से बड़ा सैल्यूटरी एफेक्ट होगा।

Shri Pataskar: Mr. Deputy-Speaker, Sir, on clause 49 some points have already been placed by my hon. friends Mr. N. C. Chatterjee and Pandit Thakur Das Bhargava. The clause which looks so simple is very wide in its implications. It says that "Estate duty may be collected by such means and in such manner as the Board may prescribe". My amendment is that instead of the Board it should be the Government. It may be said that after all the Board will be under the control of Government. But statutorily there is a great difference between the two. If the rules were to be framed by Government it is different, for this is a Government which is responsible to this Parliament. But once Parliament delegates the powers to an outside body, statutory or otherwise, I doubt whether it will be subjected to the same control by this House as it would be in the case of the Government itself.

For instance the other day we had a discussion about the Rehabilitation Finance Administration or Board. There were some complaints from the Opposition. Right or wrong, that apart, the hon. the Deputy Finance Minister Mr. A. C. Guha escaped by saying that the Board has done it, the Board is a representative body, statutory body, and therefore Government are not answerable.

The question therefore is very important whether in a measure like this we should give this power of legislation—so called delegated legislation—to a Board. It may be a statutory body. It is true that in England, for instance, they have such a thing because Parliament cannot go into all details and some details have therefore to be left to be decided by the administration. That is the course of law as it has developed in England, which we are trying to follow. But the main question is even there attempts were made for a long time, constitutionalists discussed the question from time to time several Committees were appointed, and it was thought that this delegated legislation, as it is called, in the form of making rules had become something which was very incongruous.

For instance I would refer to this "Harvard Studies in Administrative Law". This is nothing short of what is known as administrative discretion that is given to this Board, not to the Government. What is the result? This is characterised by Lord Hewart—I will not quote the whole thing but only a few lines from this book "Parliamentary Powers of English Government Departments"—

> "Lord Hewart was only adopting the traditional standpoint of a lawyer when after an examination of the functions of the modern government departments"—because this book deals with departmental rules—"in which he found that no more than half of the picture could be seen in the Statute Book and the Law Reports, he characterised the

whole process as administrative lawlessness."

That is how he characterised it.

Even from the discussion we have had on this clause, the hon. Member Mr. N. C. Chatterjee thinks that the powers are very wide and, as interpreted by the hon. Member Pandit Thakur Das Bhargava, a man can accept property in respect of his dues. There are probably other people who think as if this is a Bill which has been introduced for the sake, as the hon. Member Mr. Gadgil says, of equalisation of property and others who think it is for removing one class which should not be there. But so long as the institution of property stands, I think it is not right to say that we should cause any harassment to those people. I cannot understand the two things. If you say 'you shall not have any property at all' it is a different matter. But so long as the institution of property remains I cannot understand this proposition. I can understand the process of equalising. But the main principle of this Bill, I still contend, is the recovery of duty. That is the main principle and not anything else. Then why should there be any harassment of any class of people? If you want to take away property, take it straightaway. There is no doubt about that course. But if you do it in the garb of levying estate Duty, as was suggested by some Members, giving no fairplay and justice to those who own property, that would be going against the fundamental basis of society.

Therefore my submission is that this delegation of power to the Board in such wide form is wrong. I had raised this point at the time of the general discussion of the Bill and I was told that in England it was there. I would request the Finance Minister to ask his Department and the Law Department to look into that matter. In England it was found to be a bad thing and they passed an act in 1946 known as the Statutory Instruments Act. They investigated the whole of this matter and it was found that all this power could be given to Government but not to any outside body who might frame rules over which Parliament would not have any control. This Statutory Instruments Act was passed in 1946 to repeal the Rules and to make further provisions as to the instruments by which statutory powers to make orders, rules, regulations and other subordinate legislation are exercised. Look at the definition there—it may be, Sir, that I am trying to take some time, but the point is rather new and I hope the Finance Minister will listen to me. "Statutory instruments" are defined—exactly as these rules framed by the several Departments—

> "Where by this Act or any Act passed after the commencement of this Act power to make, confirm or approve orders, rules, regulations or other subordinate legislation is conferred on His Majesty in Council or on any Minister of the Crown then, if the power is expressed etc., etc."

That is the 1st clause. The second clause is:

> "Where by any Act passed before the commencement of this Act power to make statutory rules within the meaning of the rules Publication Act, 1893, was conferred on any rule-making authority—that is outside authority not the Government—within the meaning of that Act, any document by which that power is exercised after the commencement of this Act shall, save as is otherwise provided by regulations made under this Act, be known as a "statutory instrument" and the provisions of this Act shall apply thereto accordingly."

That is to say, the rules passed by various departments are all known as and defined as statutory instru-

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ments. Section 11(1) of that Act says:

> "For the purposes of this Act, any power to make, confirm or approve orders, rules, regulations or other subordinate legislation conferred on the Treasury, the Admiralty, the Board of Trade or any other government department shall be deemed to be conferred on the Minister of the Crown in charge of that department."

They made that provision because a practice had grown by which, in England, all these departments were given powers to make rules, etc. and they were promulgated. They wanted that the Government should be responsible for these rules and not any third party. Therefore they made this provision in section 11(1). Therefore, the present state of law in England, after having gone through that process is that this power to have subordinate legislation must be given to the Government.

I know many of my hon. friends will say, if it is a Board of the Government, what does it matter? But, there is a difference. If it is a Board, statutory or third party, I do not know to what extent those rules will be subject to the control of this House. When it is the Government, the very basis of delegated legislation is that Parliament chooses to give these powers to the Government so that whenever they find that there is anything wrong, they can take cognisance of it. Of course, I know that even in England that stage has reached when these rules even when they are framed by subordinate bodies, are to be laid on the Table of the House. We know that merely laying on the Table of the House, does not mean much. I do not know how these third party statutory Boards are subordinate to this Parliament. Therefore, to my mind these powers are very wide.

I entirely agree with the principle underlying the amendment moved by the hon. Member Mr. Chatterjee. The hon. Member Mr. More naturally opposed it. In the English Act from which the provisions of this Act have been taken bodily, they did not want to destroy property. They have made provision and they have a body called the National Trust Association. It is open to a man, who probably finds that he is unable to pay the duty from his property, to hand over all his property to the National Trust Association. They take charge of it, and the amount is paid in easy instalments. The idea is not to destroy the property, but to save it. The main idea is that the tax which is levied should be recovered. Nobody should escape the tax. We should be against any person who wants to avoid payment of the tax. But, because we have, in the present economic context of the country, a certain prejudice, because a very large number of people in this country are poor and a very small percentage of the people are in possession of property, if we start with the destroying of property, without looking to the just claims of these people, I think it will be a sad day for which we will have to repent. What is done wrongly in the interests of a certain class now, would be repeated against another class tomorrow. Therefore, the rules of justice, fair-play and equity must apply to all equally, so long as we do not want to destroy the institution of property. The way in which this Bill has been looked at from the beginning, to my mind, has led us into several things which should not have happened at all. Therefore, I would again earnestly appeal to the Members and to the hon. Finance Minister, let the Bill be looked at in the proper aspect of it, which is, we want money for these irrigation projects and development projects, and naturally we can recover only from the rich people. There is no idea of creating any hostility to that class which owns property or of being unjust or unfair to them. In the interests of society in general.

we must recover money. That should be the basis and that would be the right approach. From that point of view. I think the amendment moved by my hon. friend Mr. Chatterjee really does not go far enough. As I said, in England. the Act on the model of which this Act has been drafted, contains a provision for the National Trust Association. It may be difficult in the present state of society here to have such an Association here. But they have got the National Trust Association by means of which a man can pay the tax and still save the property for his family and others. Therefore, I would like to urge again that this is giving rather too wide powers.

Apart from this question, the other point to which I am going to press at a later time. when we take up clause 81, in greater detail is this. It is provided here that the Estate duty may be collected by such means and in such manner as the Board may prescribe. For instance, look at clause 71, which deals with recovery of duty and penalties. It says:

> "Any estate duty or deficit duty and any interest or penalty payable under this Act may, on the certificate of the Controller, be recovered from the person liable thereto as if it were an arrear of land revenue by any collector in any State."

We know that the former British Government had framed rules for the collection of arrears of land revenue in such a manner that. I think, they hardly require any further modifications. So far as the collection of arrears of land revenue is concerned, all possible powers are there. I know the rules as they prevail in the State of Bombay; I do not know of the other States.

Pandit Thakur Das Bhargava: They are equally strict in other States.

Shri Pataskar: What I say is this. We have given this power with regard to Income-tax arrears. Supposing a sum of Rs. 50,000 is to be recovered from a person, generally, it is not the Income-tax department that does it. It is sent to the Collector for recovery. He has all powers and he recovers the money as arrears of land revenue. Apart from this recovery, what is it that is contemplated by this clause 49, I would like to know? Perhaps there may be certain other things. When you have clause 71 for the recovery of the duty, why is it necessary to arm this Board with these vast powers which are unfathomable? It is said here:

> "Estate duty may be collected by such means and in such manner as the Board may prescribe."

Neither the means nor the manner are decided or limited here; nor is there any indication as to what they should be. It is as wide as anything could be.

Mr. Deputy-Speaker: Is there a right of recourse under this clause against the personal property of the person who succeeds? Let us assume that a person has got property worth a lakh and gets an estate worth 1 lakh. Under clause 71, it is open to the Government to recover the duty as arrears of land revenue. Let us assume that the market value of the 1 lakh of property, on which an estate duty of Rs. 5,000 or 6,000 has got to be paid, has fallen and it does not fetch Rs. 5,000. Is there a right of recourse against the other property of the person, under this clause?

Shri Pataskar: Even in the case of land revenue, the property can be let out for some period and the amount recovered in advance. That is another method. All that can be done.

Shri N. C. Chatterjee: Please look at clause 71.

Shri Pataskar: Clause 71 says:

> "Any estate duty or deficit duty and any interest or penalty payable under this Act may, on the certificate of the Controller,

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> be recovered from the person liable to as if it were an arrear of land revenue by any Collector in any State."

As you said, Sir, if a duty of Rs. 6,000 is to be recovered out of an estate worth 1 lakh and if the Collector finds that it may not be possible to recover that, there are powers under the Revenue Recovery Code by which he can let out the property for 2 or 3 years, take that amount in advance, and hand over the property to another person to be let out or enjoyed, and thus recover the amount. The powers which have been given to the Collectors for recovery of arrears of land revenue, to my mind, leave nothing that could be added to them. Besides giving these powers, naturally, the Collector, as we know, will be an officer of the Income-tax department and Collectors are persons who are specialists in this business of recovery of land revenue and other dues.

There are so many other things in which the Government leaves the recovery of these dues to the Collector. Then, apart from that, what is it that we expect that the Board will do under Section 49 by saying:

> "Estate duty may be collected by such means and in such manner as the Board may prescribe."

Is it by imprisoning the man who is unable to pay, putting him in civil jail?

Pandit Thakur Das Bhargava: So far as collection of arrears of land revenue is concerned, the first thing is imprisonment after notice of demand.

Shri Pataskar: Here, I do not know why this Clause 49 is there. One may not be able to imagine all sorts of contingencies and Government may have some power subsequently if they have any difficulty. I do not want them to come to Parliament again, but then my point is that let power be taken by the Government itself. Let not such powers be given to this administrative law, as Harvards say this "lawless law". It may not be so correct in every case, but that is what they thought in England. They have given all the powers to Parliament, then those people came to the conclusion that administrative laws amounted to what is known as "lawless law". Therefore, if at all powers for any unthought of difficulty have to be taken, that power should be taken by the Government, and should not be left to the Board. And I think nothing would be lost by this.

Shri S. S. More: May I ask a question of the hon. Member? He has supported the amendment moved by Mr. Chatterjee. Take the instance of Taccavi loans which are to be recovered by Government from peasants. Take for instance, income-tax. A man is assessed at the high level of Rs. 6 lakhs or Rs. 4 lakhs. He is prepared to surrender part of his property. Will this principle be extended to all the cases where recoveries are to be made by Government?

Shri Pataskar: Yes, yes. I am prepared that we must have such rules and such methods which are fair and which must be extended to all sections. I have already made it sufficiently clear. I am not pleading the cause of the rich, because that is a different matter, but I am pleading the cause of justice and fairplay to all concerned, in whatever manner the question may arise. My hon. friend probably does not know that a long time back when I was in the Bombay Legislative Council I was pleading that the same concession should be given in the matter of land revenue also.

Mr. Deputy-Speaker: Mr. Tek Chand has tabled an amendment to Clause 50, on the same lines as the amendments which are being discussed. Barring his amendment, there is no other amendment to Clause 50. Therefore, if I give him an opportunity to speak on this Clause now, I can put both the Clauses together.

Shri N. C. Chatterjee: Or, you can accept.

Shri C. D. Deshmukh: Which amendment?

Mr. Deputy-Speaker: Amendment No. 289. I would like to dispose of both the Clauses together, if possible.

Shri Tek Chand (Ambala—Simla). Mr. Deputy-Speaker, I would have had no hesitation whatsoever in accepting the amendment of Shri Chatterjee, but for the fact that I claim that in certain details my amendment is a little more elaborate, though in substance and objective the two amendments are identical.

In supporting what Mr. Chatterjee has stated and what my hon. friend Shri Pataskar has stated, I am guided by the fact that the law in England is as we contend in the amendment. The most important thing that I pray the Government to note—whether the language of my amendment is examined or that of my learned friend Shri Chatterjee is examined—is that it is an enabling provision, not a disabling provision. That is to say, it empowers, it confers upon your Controller or the Central Board of Revenue more extensive power, *viz.*, if they consider it suitable, if they also agree that the property may be utilised by them, they should have the power and they will be the exclusive judges of determining whether and under what circumstances that power is to be exercised. We who are moving the amendment are motivated by the fact that that power at least should be conferred upon the Central Board of Revenue so that, in suitable cases, they may pick and choose between property and cash. Incidentally it may be that when they are picking and choosing between property and cash, it may also suit the requirements of the citizen. It will also be eminently just, because that will be the test of correct valuation. You are valuing a property, say, at Rs. 2 lakhs, and the citizen say: "No, it is not worth Rs. 2 lakhs It is worth only a lakh." The authorities say: "No, it is so." Let him then say: "Please take the property. Deduct your duty and pay me the rest." Or, he would be content with even less than the rest. And that would be the test whether your valuation is correct or not.

Then, Sir, apart from its being an enabling provision, may I take the liberty of inviting the attention of the draftsmen of this Bill to a provision under the English law. My amendment is a verbal reproduction, with very trivial changes, of that provision. Instead of "Commissioners", I have put in "Controller". And that provision, *viz.*, Section 56 of the English Act runs as under:

> "(1) The Commissioners may, if they think fit, on the application of any person liable to pay estate duty or settlement estate duty or succession duty in respect of any real (including leasehold) property, accept in satisfaction of the whole or any part of such duty such part of the property as may be agreed upon between the Commissioners and that person."

That is to say, the Commissioner is not bound to accept that property. The Commissioner, at the same time, cannot insist that he must have the property. But there is an opportunity both to the citizen as well as to the Commissioners in England;—we have got "Controller" here—if they both agree, then you have the property. It may be that you may be needing such a property because you want to have your own hospital or your school or you want to have your agricultural farm. There are so many multipurpose schemes for which the Government may be needing the property. If the Government were out to acquire the property under the Land Acquisition Act, the Government shall have to pay not only the market value; they shall have further to pay 15 per cent. over and above the market value. Therefore, the Government is enabled, if our amendment

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is accepted, to acquire a property which they may consider suitable for their purpose without having to pay an additional 15 per cent, as they have got to pay under the Land Acquisition Act.

Then, as early as 1909 and 1910, the Finance Act of England visualised such a contingency, and as a result of their subsequent experience—that is to say in 1946 when they brought out their new Act, the new Finance Act of 1946—they extended its scope. They enlarged its scope, and Section 49 of the 1946 Finance Act of England provided that:

> "The Commissioners of inland Revenue shall have power to accept property under section fifty-six of the Finance (1909-10) Act, 1910, in statisfaction or part satisfaction of any estate duty, settlement estate duty, succession duty or legacy duty..."

That is to say, though originally the Government started exercising the right under the 1909-1910 Act to take property as against estate duty, the scope of this provision was further widened and enlarged in 1946, and the Government was similarly empowered, or the Commissioners were similarly empowered, to take that property as against other similar estate duty, settlement duty, succession duty, legacy duty, etc. In most respects, we are following the English law. But when it comes to a provision like this. England started with the attitude that the Commissioners may take property, and they went on progressively increasing the scope of that power. On the other hand, in this country where people do not possess ready cash, where cash is not available, you are refusing to accept property, even where it may suit your purpose to take property. My object in inviting the pointed attention of the hon. Finance Minister is that before he makes a final decision on the matter, I pray that he may be pleased to peruse—which I am sure, he must have already done,—and at least review with full concentration, the provisions of Section 56 of the 1909 Act, and Sections 49, 50 and 51 of the 1946 Finance Act of England.

In England, apart from this, there is a National Land Trust. Properties acquired in England as against payments of estate duty, settlement duty and legacy duty etc. are handed over to a national body, known as the National Land Trust, which utilises these properties to the national advantage. It may be for museums, zoological or botanical gardens or for so many other purposes, to which the properties may be utilised, whether they happen to be agricultural lands, or just vacant sites, or buildings.

I am asking you therefore to have that power with yourself. Because you have the power, it does not necessarily follow that the citizen who is going to be subjected to estate duty has the option to offer land in exchange—I wish it were—but then both the amendments, mine as well as Mr. Chatterjee's are very modest ones. We want that you should have the power conferred upon you, so that the citizen may at least endeavour to persuade the controllers, and show to them the reasonableness of the proposition. Of course, the judge or the reasonableness every time will be the Controller.

I now come to the provisions of clause 49.

> "Estate duty may be collected by such means and in such manner as the Board may prescribe".

The cryptic language of this clause is the best justification of that great book of Lord Chief Justice Hewart, called "New Despotism". It was only a few days ago that I studied it, and found that there is a modern tendency, a tendency which is to be severely deprecated which is being deprecated in England, *viz.* that there is a propensity or irresistible proclivity of the executive to encroach upon the realm of the Legislature on the one side, and upon the preserves of the judiciary on the other. When you have a provision like clause 49, as you have worded it, what else remains? The means and the manner are to be prescribed by the Board will be the judge in other matters as well. The procedure, the means and the methods of collection are to be within the exclusive jurisdiction of the Board. When it comes to the question of a tribunal, the Board again will be the judge. Therefore, if there is anything which approximates to that executive tendency which was contemplated by no less an authority than Lord Chief Justice Hewart, clause 49 is an exact sample of what his Lordship feared and dreaded. In the end, I would respectfully submit that if the amendment is accepted, and you accept these powers, there will be an enlargement of your powers, so that they can be occasionally used to the behoof and advantage of the citizen as well as the State.

The Parliamentary Secretary to the Minister of Finance (Shri B. R. Bhagat): I beg to move:

"That the question be now put."

Shri K. K. Basu: This is a very important matter.

Mr. Deputy-Speaker: There are only two points to be decided. One is whether the Government should be given the power or the Board. That is Shri Pataskar's amendment. The other is whether any option should be given to the Controller or the Board to accept property in lieu of payment in cash, for estate duty.

Shri Gadgil: It will come in the rules later on.

Mr. Deputy-Speaker: These two matters have been discussed.

The question is:

"That the question be now put."

11 A.M.

Shri K. K. Basu: May I make a submission, Sir? Unfortunately you have allowed persons who have moved amendments to speak but not those who want to oppose them. They must also be given a chance to put forward their point of view.

Mr. Deputy-Speaker: The hon. Finance Minister is opposing them.

Shri K. K. Basu: Is he the custodian of our thoughts that he has opposed them, on our behalf?

Mr. Deputy-Speaker: Mr. More has opposed.

Shri K. K. Basu: Why should four people be allowed to support, while no one on this side is allowed to oppose and speak?

Mr. Deputy-Speaker: Let me be clear about this matter. On every clause and every amendment, am I to ask all the 500 members to speak?

Shri K. K. Basu: That is not true.

Mr. Deputy-Speaker: Certainly I will abide by whatever decision the House takes. I have no objection to sit any length of time. All that I can say is that if both sides have been represented sufficiently, I proceed to accept the closure.

The object of one of these amendments is that the Government should have the power as against the Board, before framing the rules. That is an independent amendment. The other amendment is that property must be taken in exchange for cash. I had called upon Mr. Tek Chand, because he has tabled a similar amendment to clause 50; instead of spending some time over the same matter when we come up to clause 50, I wanted to give him an opportunity to speak now. (*Interruptions*).

Shri K. K. Basu: Four persons have spoken in support; at least two or three should be there to oppose.

Shri V. P. Nayar: (Chirayinkil): It is really a very dangerous provision. That is why we wanted to speak.

Mr. Deputy-Speaker: The hon. member was also there in the Select Committee. I am trying to follow Mr. Dhulekar's advice.

Shri V. P. Nayar: From your experience in various Select Committees, you must be knowing fully well that

[Shri V. P. Nayar]

all points cannot be touched upon in the Select Committee.

This is against what has been agreed to in the Select Committee also. Although I must confess that I am not able to import so much emphasis into my words as Mr. Tek Chand has been able to do, and although I am unable to quote Lord Chief Justice Hewart or anybody like that, I must oppose the amendments of Mr. N. C. Chatterjee and Mr. Tek Chand for obvious reasons. If, as my hon. and learned friend Mr. Chatterjee said that he intends to have this amendment as a sort of enabling provision, a sort of relief on the adverse effects or the possible adverse effects of the incidence of estate duty...

Shri N. C. Chatterjee: I said salutary check against possible overvaluation.

Shri V. P. Nayar: If that is so, this is not the appropriate place where we should have an amendment like this, because in another clause, a definite provision has been made—you will be pleased to go through clause 68—that in case there is any hardship caused on the levy of estate duty, the Controller has the option to give some time to the assessee. Very well, you can give some more time to the middle classes and relieve them. But that is not the main point. In this amendment, there is another danger. I shall point out a concrete instance. You know that property is not always productive. Many of the landlords have invested money in unproductive property. I shall give you a specific instance. Take for instance, the estate of the Rajpramukh of Travancore-Cochin. He has a palace, a 'Valiakottaram', the white-washing of which alone will cost Rs. 25,000, and if you want to dismantle any particular structure there, you will have to spend nearly a lakh of rupees. He can very easily shove this property on to Government, when the estate duty on his property has to be paid. You find human beings do not live now in that place, only jackals live, only bats live...

Mr. Deputy Speaker: Order, order. In an indirect manner, the hon. Member is bringing in all these things. I have been noticing this for some time. Why should the hon. member say jackals or bats or other things? It is very wrong. Why should he, in the Estates Duty Bill, call jackals and bats and say they are living in a palace where rightly or wrongly a Rajpramukh is living or not? It is very wrong,—let us maintain the level of debate here, to which no exception can be taken by anybody.

Shri V. P. Nayar: I only pointed out that in cases like the one I have pointed out, if property is accepted in lieu of cash, it will prove to be a white elephant for the Government. They will not be able to maintain the properties. You will also find that this is not the only property, but other unproductive properties are also there. This Government is getting more and more bankrupt every day, and when it really wants money, what is the use of giving some unproductive property in the hands of Mr. Chintaman Deshmukh? Where is he going to sell all this unproductive property?

That is not correct. And there is this danger also, that if you want money and if you accept property, you will get property at fantastic value, because we ought to have a presumption that the Valuers will always go against the interest of the State. That is what we should do.

Pandit Thakur Das Bhargava: Who will determine such fantastic value? (*Interruptions by many hon. Members*).

Shri V. P. Nayar: I can answer that.

Mr. Deputy-Speaker: The hon. member need not answer.

Shri V. P. Nayar: When people like Mr. Rohini Kumar Chaudhury interrupt me, I think I must be fair to him.

That is again the proposition put forward by Mr. Tek Chand in supporting the amendment of Mr. Chatterjee. He forgets that this is going to be a very dangerous provision, because, as I told you before, the danger is that all unproductive property which will not in any way be useful to Government will be shoved on in lieu of money and at fantastic price, because you can certainly expect that the Valuers will collude with these people who have unproductive property.

Shri Tek Chand. We never said that it will be shoved on to Government.

Shri V. P. Nayar: We must be satisfied. We must know...

Mr. Deputy-Speaker: Let us not quarrel with what each hon. member has said.

Shri Tulsidas: My amendment goes still further, but not being a lawyer, I am sorry I have not been able to put it in the proper form which Mr. Chatterjee and Mr. Tek Chand have done and also as Pandit Bhargava has quoted.

I do not wish to go into this point again because they have already pointed out the salient features of the amendment which they have suggested. One point I do want to make and that is with regard to the remarks of Mr. Nayar. What he says is that it will be shoved on Government. Under the powers given to the Government by the amendment, it is for the Government to accept it or not It is for the Government to decide what property they should take or not to take. This power is conferred upon the Government—the Central Board of Revenue—and if they consider that in a particular case a property may be accepted at a price which they consider proper, they may accept it. That is the point. There is nothing else in it. In any case, supposing duty is not paid and the person is not in a position to pay the duty, after all the estate will have to be auctioned or will have to be taken over. Therefore, I do not know why this particular amendment which has been moved by Mr. Chatterjee is not acceptable.

I would now make one or two observations with regard to trustee securities. In my amendment, I have mentioned about trustee securities. My amendment is very specific. I know under clause 50 power is vested in the Central Board of Revenue to prescribe the rules by which securities will be accepted. But that is not really specific. My amendment is that where payment of estate duty is offered in terms of trustee securities, such securities shall be accepted at the valuation taken for estate duty purposes. Suppose a person has got trustee securities, if he wants to hand them over in payment of estate duty, at least to that extent, at the price at which the trustee securities have been valued, Government should accept them. That is one part of my amendment.

Then, Sir, you know that there is a multiplicity of proceedings as to valuation. Valuation for the purpose of probate duty will be made by the estate officers acting under the Court-fees Act and valuation for the purpose of estate duty will be by officers acting under the Estate Duty Act. Now, I do not know what valuation will be accepted. There will be two persons valuing the estate; there will be the estate officers valuing the estate under the Court-fees Act and there will be the Estate Duty officers valuing under the Estate Duty Act. I do not know how this hardship will be removed. I do want to request the hon. the Finance Minister to let us know how this hardship will be removed, because it will be a great hardship. These are the two points I wish to make.

Shri C. D. Deshmukh: I shall first deal with Shri Pataskar's amendment. Now, had we not passed already certain clauses which give the power to the Board to make rules, I might have been inclined to consider the arguments that he has put forward. But

[Shri C. D. Deshmukh]

I would draw your attention to clause 19A, which is a new clause that we have inserted, as well as clause 20(2). There we have given power to the Board to make rules. Suddenly we come to another clause and we now propose that the power to make rules should be retained by Government! I think that will lead to confusion, especially as this thing does not happen to be a matter of any high or outstanding importance.

Now, Shri Pataskar goes to the length of saying that he does not quite know what purpose is to be served by rules to be made under this particular clause—clause 49. Sir, I have considered the genuine difficulty that the hon. member feels about this delegated legislation. It is a matter which has been plaguing all of us not today but over many years and I think, Sir, you yourself have in mind that something ought to be done to put this matter on a regular footing, and I think you are well seized of this question.

Pandit Thakur Das Bhargava: The Speaker is going to appoint a Committee to consider the question of delegated legislation.

Shri C. D. Deshmukh: That is what I had in mind. And therefore, considering that this is a Statutory Board, considering that we have already vested it with power in certain other respects, I suggest that we do not make a change here. But I am prepared to meet the standpoint of the hon. members who have supported this amendment by moving my amendment No. 593 to clause 81 by which the rule-making powers of the Board are specifically subject to the control of the Central Government. I am going to suggest there that it should be with the approval of the Central Government and I think hon. members ought to rest content with that. If that is acceptable to them, then I hope that this particular amendment will not be pressed.

I would just like to point out that this clause 49 is not quite so otiose as it appears to the hon. member. I have got here draft rules already made by the Board. They are only draft rules. I am in possession of them.

Shri Pataskar: I had no knowledge of it.

Shri C. D. Deshmukh: They deal with all matters: calculation and adjustment of duty (rule 11), payment in respect of annuity (rule 12), excess payment of duty (rule 13), method of payment, whether a cheque should be delivered at a Schedule Bank or a bank draft should be accepted, in what circumstances the amount may be deposited to the credit of the Government etc.—all kinds of minutiae to be attended to. These will be taken care of by these rules.

Frankly, Sir, I am of opinion that these are matters which the Board may well look after in spite of their interest in deciding these matters on appeal. These are the sort of things they are likely to deal with and I think hon. Members have been unduly suspicious in regard to this. But, as I have said, I am going to propose an amendment that these rules shall be made with the approval of the Central Government and, as you know, they are going to be laid before both Houses of Parliament. That is in regard to these rules.

Now, I come to the other important matter that has been raised by hon. Members by the other amendments. Here again, if we were to confine ourselves to the amendment of Shri Chatterjee, there might have been something to be said for it. But, I am scared by the arguments that have been used by several hon. Members in support of this amendment and in support of amendments which go much further than this. In other words, they say that the justification for this kind of amendment is that there will be a check on valuation. Now, that is a position which I cannot accept. I say that we have for good or evil accepted a certain method of valuation. Now, we cannot go back on it. There are provisions for appeal and so on and practically an adjudication by a Board of Valuers.

Mr. Deputy-Speaker: That does not appear to be a condition of this amendment.

Shri C. D. Deshmukh: Therefore it is really a kind of threat and one cannot easily imagine what kind of psychological reaction there can be both in assessment as well as in payment of the duty. It is quite true that the entire discretion is left with the Government and, of course, to that extent the remedy becomes ineffective. The meaning of this seems to me that a great deal of pressure will be put on Government from all parts of the country to ensure that properties are taken over. We have some experience of this kind of pressure in another matter which is a smaller one, in regard to the admission of certain exemptions under section 15B of the Income-tax (Amendment) Act. Not a day passed but we received applications for exempting donations to some institution or the other and we found that we could not draw any kind of line like Lakshmane's line, which we would not cross, with the result that we were finally compelled to come before Parliament for the purpose of taking away the discretion that we had. I fear, Sir, that this is what will happen here.

Another reason why I cannot accept even the amendment of Mr. Chatterjee, which in all consciousness is very modest and restrained, is that the conditions are not the same as in the United Kindom where the revenue goes to the State. Even if it is a house it goes to the State or it goes to the National Trust. Here, all that we collect is to be passed on to the States. Therefore you will have the spectacle of 1000 shares of the Indian Iron Company being transferred to the West Bengal Government, 1000 shares of Tata Deferred which would be passed on to the Bombay Government or a luxurious kothi in Rajasthan to be passed on to the Rajasthan Government.

Now, as hon. Members have said, what we want for the implementation of the Plan is money and not Tata deferred or Indian Irons or a palace.

An. Hon. Member: They can be converted into money.

Shri C. D. Deshmukh: It is because they could not be converted into money that the assessee says, 'I give this to you in lieu of the duty payable'. Had it not been so, then he would have paid the duty. We have made a provision for enabling an assessee with *bona fides*, that is to say even the deceased; but unfortunately all this will happen after he has gone. He can certainly take precautions in order to see that those who succeed to his property are not put to any inconvenience. He can insure, he can make an advance payment. Therefore in view of this which would be applicable to the classes who are likely to take advantage of this, I do not think that it is nessary to make any such concession.

Then there is another point. Shri Tek Chand's amendment contains a reference to stamp duty, amendment No. 289, to clause 50. I think that is out of order. I do not see how we can legislate in regard to stamp duty. In England, Sir, no stamp duty is payable and he has copied this from the English Act, which I have kept here and which he has asked me to study. I have studied it carefully.

Mr. Deputy-Speaker: What he says is that if property is accepted, under the Transfer of Property Act, it must be in writing above a particular value. Under the Stamp Act, when once it is reduced to writing there must be stamp duty. All that he says is that if the first is accepted, no stamp duty need be paid. We

[Mr. Deputy-Speaker]

need not labour the point as to stamp duty, because from the trend of the hon. Minister's speech I think he is not going to accept it.

Shri C. D. Deshmukh: Even if we accept it there is one other objection that stamp duty will have to be paid. We will be only collecting....

Pandit Thakur Das Bhargava: We will be collecting the duty for the States.

Mr. Deputy-Speaker: Parliament has no right to decide upon that.

Shri C. D. Deshmukh: That is another argument why, in spite of a certain amount of understanding of the position of hon. Members, it is not possible for me to accept this. In U.K. although this has been in existence—this is not the norm; it only applies to very exceptional cases —it is on record that in 1952 the number so accepted for public purposes was only 3. Now, Sir, if there is such a necessity and we do feel that we want a palace in Rajasthan, we can purchase it by negotiation and it would not be difficult to fix the value, because the valuation would have been made already. Therefore, for these reasons I am unable to accept this amendment.

Shri Tulsidas: What about the point that I raised?

Shri C. D. Deshmukh: About trustee charities, we don't think we ought to put in others; we ought to confine ourselves to government securities for which we shall make rules.

Shri Tulsidas: What about the difference in valuation between those of the State Officers and the Estate Duty officers?

Shri C. D. Deshmukh: There is no way of avoiding valuation inequalities, made by different valuation authorities. These matters will have to be taken care of in the light of experience perhaps by some kind of negotiation between the taxation authorities.

Shri Tek Chand: May I ask a question, Sir?

Mr. Deputy-Speaker: No, no; the hon. Member was in the Select Committee. I will put Shri Tulsidas's amendment to the vote.

Shri Tulsidas: Sir, the amendment of Mr. Chatterjee may be put.

Mr. Deputy-Speaker: I will put amendment No. 326 to clause 49, moved by Mr. N. C. Chatterjee to the vote.

The question is:

In page 25, *after* line 9, *insert*:

> "Provided that the Board may, if it thinks fit, on the application of any person liable to pay estate duty in respect of any immoveable property, accept in satisfaction of the whole or any part of such duty such part of the property as may be agreed upon between the Board and that person."

The motion was negatived.

Mr. Deputy-Speaker: I shall now put the amendment of Mr. Pataskar, No. 563, to vote.

The question is:

In page 25, line 9, *for* "Board" *substitute* "Government".

The motion was negatived.

Mr. Deputy-Speaker: I will put amendment No. 162 to the vote.

An Hon. Member: He wants to withdraw it.

Mr. Deputy-Speaker: Has the hon. Member leave of the House to withdraw his amendment?

Several Hon. Members: Yes.

The amendment was, by leave, withdrawn.

Mr. Deputy-Speaker: The question is:

"That clause 49 stand part of the Bill."

The motion was adopted.

Cluase 49 was added to the Bill.

Clause 50.—(*Payment of duty etc.*)

Mr. Deputy-Speaker: Amendments to clause 50 are barred.

The question is:

"That clause 50 stand part of the Bill."

The motion was adopted.

Clause 50 was added to the Bill.

Clause 51.—(*Persons accountable etc.*)

Shri Krishna Chandra (Mathura Distt.—West): I beg to move:

(1) In page 25, lines 25 and 26, *omit* "or which, but for his own neglect or default, he might have received"; and

(2) In page 25, line 36, *add* at the end:

"The expenses incurred in recovery shall be allowed to be deducted from the property so recovered."

Shri Dabhi (Kaira North): I beg to move:

In page 25, *after* line 41, *insert*:

"Provided that no person shall be required to deliver such account to the Controller if the value of the property in respect of which estate duty is payable does not exceed rupees one lakh and fifty thousand."

Shri Tulsidas: I beg to move:

In page 26, *after* line 6, *insert*:

"(6) Subject to the above provisions—

(i) estate duty payable in respect of an estate shall be apportioned by the executor, trustee or administrator, among all the beneficiaries in proportion to the total value of their interest subject to any different dispositions made by the deceased in his will;

(ii) where there is no executor, trustee or administrator of the estate of the deceased, the duty assessed on the estate shall be payable by the persons who receive the estate or portions of the estate, and the duty so payable by each such person shall bear the same proportion to the total duty payable in respect of the estate as the value of the property received by that person bears to the total value of the estate liable to duty; and

(iii) persons who hold joint interest in any property forming the whole or part of the estate of the deceased, shall be jointly and severally liable to pay the duty which is payable in respect of that part of the property which is held jointly."

Shri Dabhi: My amendment refers to sub-clause (3) of clause 51. I would read the relevant portion.

"Every person accountable for estate duty under the provisions of this section shall, within six months of the death of the deceased or such later time as the Controller may allow, deliver to the Controller and verify to the best of his knowledge and belief, an account of all the property in respect of which estate duty is payable."

You will see that every person who is accountable for estate duty has compulsorily to deliver an account of

[Shri Dabhi]

all the property even without being asked by the Controller.

Mr. Deputy-Speaker: Is it not so with respect to income-tax? When the notification is made, hon. Members are called upon to send the returns.

Shri Dabhi: To my mind this is likely to lead to harassment to persons concerned especially in a border line case. I would give one example. Suppose in a village a man dies leaving one building and some acres of land. Now it is possible that ordinarily he would think that the property that has been left to him is not worth more than Rs. one lakh. So he may not give any account of the same to the Controller. What would happen?

There are two kinds of penalties in such cases. If the man of his own accord thinks that he is not accountable for that because his property is not worth more than Rs. one lakh and if the Controller afterwards thinks that that property is more than Rs. one lakh even by Rs. two hundred he can inflict two kinds of penalties provided for in this Bill. Section 54 says:

> "Any person who without reasonable cause has failed to comply with the provisions of section 51 or section 53 or has failed to comply with the said provisions within the time allowed, shall be liable to pay a penalty of one thousand rupees or a sum equal to double the amount of estate or a sum equal amount of estate duty, if any, remaining unpaid for which he is accountable according as the Controller may direct;"

This is one kind of penalty. There is another kind of penalty provided under sub-clause (2) of Clause 59 which says:

> "In any case where no account has been delivered as required by section 51 or clause (a) of section 55, the Controller may cause an account of the property passing on the death of the deceased to be prepared in such manner and by such means as he thinks fit and may call upon any person who in his opinion is accountable for the payment of estate duty in respect of the property to accept such account, and if that person does not accept the account or his liability, the Controller may determine the estate duty payable by that person."

So here the person has no option to say anything against the Controller if he comes to the conclusion that he has not given an account under Section 51 and, therefore, he is liable to accept the account. There is no provision even to hear him as to why he did not submit the account. So my submission is that in such cases it should not be made compulsory for the people who have not submitted the account. I have stated the limit in case of the person who thinks that his property is not worth more than a lakh of rupees. He should not be compulsorily required to submit an account. Under Section 53 if the Controller thinks that his property worth more than a lakh of rupees he can certainly ask him to submit that account. I have not said that all people should be exempted from the operation of sub-clause (3) of clause 51. I only ask that a penalty should not be imposed upon a person who thinks that his property is not worth more than a lakh of rupees. Of course, in the case of persons who have properties worth more than one and a half lakh of rupees they must compulsorily submit an account to the Controller. I have no objection. My submission is that Clause 53 is there which enables the Controller to ask anybody to submit his account and, therefore in the case of small people having not more than one and a half lakh of rupees it should not be made compulsory for them to submit their account. I think nobody would take an objection to my amendment.

Now only one point for clarification. In sub-clause (3) it is said that he shall deliver an account. I wanted to know the meaning of the word "account". Suppose a man has got several properties. Under the provisions sub-clause (3) of Clause 51 do they require him to submit an account of everything he possesses such as property, his house so many fields and other properties. There is nothing here to ask him to mention the prices or the value of the property. I wanted to know whether in this clause the word "account" means the particulars of the properties or that he is required to state the value of the property also. Account does not necessarily mean that he should give the value of his property. I hope the hon. the Finance Minister will see his way to accept my amendment.

Shri Krishna Chandra: Clause 51 says that persons mentioned under categories (a), (b) and (c) shall be accountable for the whole of the estate duty on the property passing on the death but shall not be liable for any duty in excess of the assets of the deceased which be actually received or which, but for his own neglect or default he might have received.

My amendment is that the words "or which, but for his own neglect or default, he might have received" may be deleted. That is to say that a person who really succeeds to the property and actually receives the property may be taxed but a person who has actually not received the property, may be on account of his own default, should not be taxed. If that person has made a default in getting that property then that property must be in possession of somebody else. Then that somebody else who has got that property may be taxed.

I will give one example. Supposing there is a government servant who is living away from his place for a long time and does not know the properties that his family possesses, and he might not have cared for the property that passes to him. Supposing he makes a default; he does not file a suit. He does not get the property which he ought to have got. Now the Clause says that he will be liable for the payment of the estate duty. This provision will hit only the poor persons, persons of ordinary means. Rich persons who have got big properties have got every kind of facility and their successors are keen enough to get the possession of that property. They can spend money to get this property, but people of ordinary means, living away from their place will not care to take all steps possible for the recovery of that property. They will suffer if these words are allowed to remain in this clause.

There is another provision under clause 51.

> "Notwithstanding anything contained in sub-section (1), where an heir-at-law proves to the satisfaction of the Controller that some other person is in adverse possession of any assets of the deceased, the heir-at-law shall not be accountable for the portion of the estate duty payable in respect of such assets:"

I have given an amendment that the words "the expenses incurred in recovery shall be allowed to be deducted from the property so recovered" be added after "Provided that he shall become so accountable if, and to the extent that, he subsequently recovers possession of such assets." Because the actual property that passes over to him is the property minus the expenses that he incurred in getting recovery of the property. So it will be reasonable that expenses incurred by him in getting recovery of the property may be allowed to be deducted from the property that passes over to him.

Shri Tulsidas: This clause lays down the persons who will be accountable for the payment of estate duty, the duties of the accountable persons, and their liabilities. A serious omission in this clause is that although the executor, trustee or administrator is made responsible for the payment of the duty still it is not provided as to how the

[Shri Tulsidas]

executor, trustee or administrator will recover duty from the persons inheriting the property. I feel that a specific provision may be made which will explain as to how estate duty paid by the executor, trustee or administrator be apportioned by them to the beneficiaries. My amendment to clause 51 (6) I provides that estate duty payable in respect of property shall be apportioned by an executor, trustee or administrator among all the beneficiaries in proportion to the value of their interest, subject to any different dispositions made by the deceased in his will.

[PANDIT THAKUR DAS BHARGAVA *in the Chair.*]

Similarly it is not provided as to how in the absence of an executor, trustee or administrator of the property of the deceased the duty assessed on the estate shall be paid by the beneficiaries. I feel, Sir, that it is very important to lay down in specific terms as to how this is to be done. I, therefore, suggest that where there is no executor, trustee, or administrator of the estate of the deceased, the duty assessable on the estate shall be payable by the person who receives the estate or portions of the estate and the duty so payable by each such person shall bear the same proportion of the total duty payable in respect of the estate as the value of the property received by that person bears to the total value of the estate liable to duty. I have moved amendment to clause 51 (6)II with this object in view and I am sure it is very necessary to lay down in the Act itself as to how the duty will be divided among the persons inheriting the property.

Further it is not laid down as to how the persons who hold joint interest in any property shall be held responsible for the payment of the duty. Here, Sir, property is held jointly, and therefore, it is suggested that all the persons shall be jointly and severally liable to pay the duty which is payable in respect of that part of the property which is held jointly. My amendment to clause 51(6)III is moved with this object in view.

I am sure that the above-mentioned points would deserve careful consideration of the Finance Minister. In my opinion they are very important and will avoid lot of litigation which will start after the Act comes into force. Sir, in the meeting of the Members of the Parliament who have submitted amendments to the Estate Duty Bill, which was held by the Finance Minister, the Finance Minister has circulated a tentative draft of the proposed amendment to be moved on behalf of the Government. I am not in a position to understand as to what has compelled the Finance Minister not to introduce the amendment in the House of the People. I think that as the amendment is very important, the Finance Minister will move the amendment even at this stage. The amendment was circulated, Sir, at the time of the meeting, and this is exactly the same amendment which was circulated at that time. I hope that as this is a very important matter which must be made clear, the Finance Minister will accept the amendment and clear the position.

Shri Gadgil: This is not a place where what the executor, administrator or the trustee should do with respect to the beneficiary or for whom he has collected or managed the estate for the time being, should be mentioned. They are governed by the general law of contribution. After deducting the expenses, after paying the estate duty, they are to give or apportion whatever is left among the beneficiaries. They are governed according to the general principles. Why this Act should have a provision of this kind? We might ask as well that the man who administers the estate or the trustee should have an office, a secretary, and so on. The State is not responsible in what way he apportions it. The State is responsible for collecting the duty on the estate as such.

Pandit K. C. Sharma: With all respect to my friend Mr. Gadgil, it is true that the general law is applicable to the present case, but it is very necessary that the provision should be here. and there is no harm done if an explicit provision is made in the Bill itself. It would then facilitate matters. What harm is done if an explicit provision is made?'

Shri U. M. Trivedi (Chittor): I draw the particular attention of this House to this provision in clause 51, line 25. The clause ends like this:

> "shall be accountable for the whole of the estate duty on the property passing on the death but shall not be liable for any duty in excess of the assets of the deceased which he actually received or which, but for his own neglect or default, he might have received:"

Penalising any person in any manner for getting a heritage from somebody is rather a very strong provision of law. How can we say a person is negligent if he is not having a heritage which is due to him?—negligent in the sense that he does not know about it probably; he does not make any hurry to get any possession of it. Some trespasser has got it and he does not enter into litigation about it. He is a man with mild disposition; he does not want to pick up a quarrel; he does not want to take shelter under Section 145, Criminal Procedure Code; he does not have lathies to beat anybody out of the premises. All these things are to be taken into consideration for a moment. If he is to be penalised, this is a very peculiar thing. I think Mr. Krishna Chandra and Mr. C. C. Shah have also moved that these words may be omitted—the words "or which, but for his own neglect or default, he might have received." This seems to be a sort of discounter, a ban, by some means or by some chance or other, against getting the property. If a man can take it, certainly let him take it. If he is not in duty bound to have it, he may not care. He just sits up. If anything comes in his power, he enjoys it. If it does not, he does not bother about it. Why make it a duty incumbent upon him by a provision of this nature? Why don't you say: "Here you are. Go and get hold of this property. If you are not going to get the property, we are going to pounce upon it. The duty will be charged to you, whether you inherit it or not; whether you have received the money or not." This is too much burden upon the man. I think the Finance Minister may kindly see that this sort of negative position—penalising a man for getting an inheritance—and putting upon him a burden is not called for. It is not a thing which the ordinary law would like to impose upon him.

Shri Dabhi: Sir, on a point of explanation. The question is, section 51 seems to be very widely worded. Is it the intention that any person, whether liable to estate duty or not, whether possessing property within the limit of the exemption or not, and the heirs of such a person also, will be liable to be accountable for the whole of the estate duty? The clause does not say that the heirs of persons who are liable to pay estate duty only will be liable to be accountable. The section, as is worded, seems to indicate a doubt. It is doubtful whether in the case of a person possessing only Rs. 5 worth of property, his heirs also will be liable. That seems to be the difficulty in this case. My submission is that it should be the duty of the Controller in the first instance to find out whether the estate that passes to the heirs is or is not liable to estate duty. Once the Controller has come to the conclusion, then it would be for him to call upon the heirs, or whoever may have taken possession of the property to file an account. So long as that is not done the result will be that every person in the remotest part of the country, wherever he may die, his heirs are under a duty to file an account and if they do not file an account, they will make themselves liable to the penalty. I would like to have this matter clarified by the hon. the Finance Minister.

Shri C. D. Deshmukh: Dealing with this last matter first, it is quite clear that the person who is required to

[Shri C. D. Deshmukh]

deliver to the Controller an account of all the property is the person who is accountable for estate duty under the provisions of this section: the account is to be an account of all the property in respect of which estate duty is payable. If a beggar dies and he has no property of any worth no one would be accountable in the sense in which we use the word. Nor would anyone stand in jeopardy of any kind of prosecution for not having delivered an account. It will be a matter of fact to say whether he is accountable and whether the estate is one in respect of which an estate duty is payable. A person is offered his own determination, so to speak, first: he has to make up his mind. He takes a certain amount of risk. I may say that this question will arise only if there is a marginal case. If I have got property worth Rs. 100 I shall never bother, my heirs will never bother about it, because they are quite certain that under no circumstances will any action lie against them. If, on the other hand, there is only one person—I am over-simplifying the case with property worth a little over Rs. 1,25,000 or Rs. 1,50,000 he has to come to a conclusion, to the best or his lights, whether his property is liable to estate duty. If he does come to a conclusion then he has to file this return.

Now, Sir, I will deal with the amendments that have been moved. The first one is Shri Krishna Chandra's amendment. This has been introduced in order to avoid any risk of coalition. We have always got to make up our mind as to which course to adopt, between these two evils: one is possible harassment to somebody, the other is possible evasion by a particularly intelligent person. Now, these words occur in the United Kingdom Statute also and they must have been inserted—they have been there since 1894—no doubt as a result of considerable experience in this matter. The only doubt that seems to trouble hon. member is what kind of criterion, we shall apply to determine whether there has been any neglect.

Mr. Chairman: It is a question of default also, not only neglect.

Shri C. D. Deshmukh: That means negligence or exertion. Then what kind of effort, or exertion do we expect him to make. There I think there would be a body of judicial rulings to prove that the law requires of a trusee no higher degree of diligence in the execution of his office than a man of ordinary prudence would exercise in the management of his own affairs. These matters will have to be construed in the light of these rulings and I have no doubt that if any person is able to prove that he has taken due care or exercised ordinary prudence, then he will not be harassed by virtue of anything that we may put in this clause.

Then I come to the next amendment which is again by Shri Krishna Chandra. A man has deliberately refrained from taking any steps to get the property. He must not be charitable at the expense of the State.

Shri Krishna Chandra: But somebody else must have got that property—why should he not be taxed?

Shri C. D. Deshmukh: It is all a question of what is the total valuation of the property. One may say I found that on death the property was in the hands of ten different people, one had a house, or "houses" of Shri Rohini Kumar Chaudhury, one costing Rs. 10,000 another costing Rs. 20,000 and so on. He may say, these are different estates, not part of one estate. Then it does make a difference to the State because the total of the valuation determines the rate which will have to be paid.

I come back, Sir, to this second amendment and that also I am afraid we cannot accept, because it might lead to difficulties and evasion. The point is the point that we have stressed before and that is that the duty is on the value of the property at the point of death. Therefore, the question of recovery of expenses does not arise for the same reason for which the House already accepted the principle that expenses of administration should not be allowed, except in that particular case which we recognised as an exception, because it was the additional expenditure on management or recovery of the value of property in a foreign country. So, that is my reason for not being able to accept this amendment.

Then I proceed to amendment No. 546. This, I think, is unworkable, Sir. To answer that first question as to whether account means valuation, I think it must and indeed the hon. member's amendment itself involves valuation. If accounting simply meant categorising a house, shares, etc., then according to him also the proviso will not be applicable. No one will know whether he is operating that proviso or not operating. Therefore the accounts must necessarily imply valuation. Therefore it is left to the Controller according to this amendment to find out whether any person should be required to submit an account or not. The Department would be at a considerable disadvantage, first in discovering accountable persons, and then in obtaining the accounts before they proceed with the levy of estate duty. This is a kind of burden which we do not think it right to shift to the Controller. All that this particular clause means is that everyone has to apply his own mind to the problem and come to the conclusion honestly what is the property worth. If he comes to the conclusion that under the rules as they stand and the law as it stands—and everybody is supposed to know the law—he is likely to be liable to estate duty, he has to submit an account.

Shri Dabhi: If a man thinks that he is not accountable and then if the Controller puts a penalty on him, there is no provision that he will be heard.

Shri C. D. Deshmukh: These are all imaginary fears. If, as I said, in actual fact, it happens that the property is worth say Rs. 1 lakh and if someone professes to be ignorant about its value and says: "I thought it was worth Rs. 25,000 only, that is why I did not submit an account," he should be liable to the duty. On the other hand, if there is a marginal case, a small difference, I am quite certain that the law will not be administered harshly. In all these cases there is this basic assumption which must be there, irrespective of the fears of hon. members, that the law will be administered with justice and equity. If there is any other assumption then they should not give their approval to the enactment of this law.

Now, there is amendment No. 688 proposed by Shri Tulsidas. He has almost turned himself into a lawyer because he is pleading an estoppel against me. He says that at some informal consultation I circulated to members a certain amendment. I have the same right to *locus po nitentiae* as possibly he has. I don't know where he has exercised it. To state the facts, it is true that at one time we did circulate a tentative draft, but then we considered this matter again. After all, that is the penalty for having an open mind. An open mind can't be open only to suggestions from certain quarters. It must take in the suggestions from all quarters including those that come from the Department. We considered particularly the provisions of 51(1) as to who shall be accountable for the whole of the estate duty, and we came to the conclusion that here we were about to surrender something valuable for the collection of the duty. As I said, the liability for the whole of the duty is imposed on each accountable person subject of course to the amount of estate actually received by each. It will be dangerous to whittle down this static liability, but in practice, I have no doubt that, coming back to his point of just and equitable administration, I cannot conceive of the Controller in the normal circumstances trying to recover the duty in any other manner than what is provided for in sub-clauses 2 and 3 of the amendment. The claim of the community must have precedence and it is only when we have failed to recover it in this manner that we take recourse to the static provision of clause 51(1). All I can say to allay

[Shri C. D. Deshmukh]

the fear of the hon. Member is that in practice and in administration, we shall try to be as just as we possibly can, without placing the interests of the community in jeopardy.

Mr. Chairman: The question is:

In page 25, lines 25 and 26, *omit* "or which, but for his own neglect or default, he might have received".

The motion was negatived.

Mr. Chairman: The question is:

In page 25, line 36, *add* at the end:

"The expenses incurred in recovery shall be allowed to be deducted from the property so recovered."

The motion was negatived.

Shri Dabhi: Sir, I beg to withdraw my amendment.

The amendment was, by leave, withdrawn.

Mr. Chairman: The question is:

In page 26, *after* line 6, *insert*:

"(6) Subject to the above provisions—

(i) estate duty payable to in respect of an estate shall be apportioned by the executor, trustee or administrator, among all the beneficiaries in proportion to the total value of their interest, subject to any different dispositions made by the deceased in his will;

(ii) where there is no executor, trustee or administrator of estate of the deceased, the duty assessed on the estate shall be payable by the persons who receive the estate or portions of the estate, and the duty so payable by each such person shall bear the same proportion to the total duty payable in respect of the estate as the value of the property received by that person bears to the total value of the estate liable to duty; and

(iii) persons who hold joining interest in any property forming the whole or part of the estate of the deceased, shall be jointly and severally liable to pay the duty which is payable in respect of that part of the property which is held jointly."

The motion was negatived.

Mr. Chairman: The question is that clause 51 stand part of the Bill.

The motion was adopted.

Clause 51 *was added to the Bill.*

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Clause 52.—(*Person accountable etc.*)

Shri Tulsidas: The clause itself makes trustees accountable in certain cases. In the first place the liability of the trustees should be limited to the assets in their hands, according to clause 51(1). Apart from this, the whole of this clause is objectionable because it puts the trustees, who may be strangers to the deceased, in a very unhappy position, because they have to provide for such duty or be personally liable for it, which is most inequitable. The procedure for their obtaining relief provided in sub-clause (2) is also not workable. In the U.K. Finance Act, 1950, section 44 provides safeguards to the trustees under clauses 2, 5 and 6 and the same should be provided for in the Indian Act. I feel that here there is a lot of responsibility put on the trustees without any safeguards given to them. I have, therefore, suggested a separate clause at the end of sub-clause (1)....I hope the Finance Minister will accept my suggestion. I beg to move:

In page 26, *after* line 18, *add*:

"Provided that no person shall be accountable as trustee of a settlement for any estate duty payable by virtue of section 11 in respect of property paid or applied to or for the benefit of a person not of full age in the exercise of any express or implied power of advancement under the settlement, where that person is not and does not become absolutely and indefeasibly entitled to any share or interest in the property comprised in the settlement, and the property so paid or applied to him or for his benefit does not exceed altogether in amount one half of his presumptive share or interest in the property so comprised."

Shri C. D. Deshmukh: I would ask the hon. Member whether he is really very clear about the words used here, *viz.* 'advancement' and 'indefeasibly entitled'. I have taken counsel with our legal people and they say that to their knowledge there are no cases of either advancement of this kind or indefeasibly entitlement. I don't think whether it serves any purpose to copy out this clause from the U.K. Act merely because it is there, without having in one's mind's eye some kind of circumstances in which it is likely to occur. I have got a big glossary of words or expressions used in legal enactments, but I can't find what is meant by 'advancement'. If the House feels that it can throw any light on this problem, I am prepared to consider it.

Mr. Chairman: Would you like to press your amendment under the circumstances?

Shri Tulsidas: I would like to press the amendment.

Mr. Chairman: The question is:

In page 26, *after* line 18, *add*:

"Provided that no person shall be accountable as trustee of a settlement for any estate duty payable by virtue of section 11 in respect of property paid or applied to or for the benefit of a person not of full age in the exercise of any express or implied power of advancement under the settlement, where that person is not and does not become absolutely and indefeasibly entitled to any share or interest in the property comprised in the settlement, and the property so paid or applied to him or for his benefit does not exceed altogether in amount one half of his presumptive share or interest in the property so comprised."

The motion was negatived.

The question is:

"That clause 52 stand part of the Bill."

The motion was adopted

Clause 52 was added to the Bill.

Clause 53 was added to the Bill.

Clause 54.—(*Penalty for default*)

Shri Tulsidas: I beg to move:

In page 27, lines 6 and 7, *omit* "or has failed to comply with the said provisions within the time allowed".

Shri G. L. Chaudhary (Shajahanpur Distt.—North *cum Kheri—East—* Reserved—Sch. Castes): I beg to move:

(1) In page 27, line 8, *omit* "one thousand rupees or".

(2) In page 27, line 11, *for* "controller" *substitute* "Board".

Shri Tulsidas: Clause 54 relates to penalty for default. My amendment is that in page 27, lines 6 and 7, the words "or has failed to comply with the said provisions within the time allowed" may be deleted. Under this clause any person failing without reasonable cause to comply with the provisions of section 51 or section 53 will be liable to a penalty of one thousand rupees or a sum equal to double the amount of estate duty, if any, remaining unpaid, according as the Controller may direct. And the Controller is given discretion to reduce the penalty.

Clause 51 deals with all persons accountable, and under clause 53 every person believed to be in possession of

[Shri Tulsidas]

the property of the deceased has to deliver a statement of particulars as required by the Controller.

The penalty provided in this clause is unduly drastic and severe in relation to the defaults contemplated under clauses 51 and 53. Though the Controller has been given the discretion to reduce the penalty in any particular case it would seldom be exercised by him, and this is amply borne out by our experience with regard to Income-tax. Moreover the Controller having imposed the full penalty in the first instance, it is too much to expect of him to modify his previous decision. It is rather curious to vest the power of discretion in the same person who levies the penalty. The clause should therefore be amended in my opinion so as to fix the penalty of one thousand rupees or the amount of estate duty remaining, whichever is lower. To impose a penalty of double the amount of the duty that is payable would be too drastic. After all, what are the defaults under clause 51 or clause 53? Therefore this penalty is too drastic and I would request the Finance Minister to consider my amendment, because here really is the case where equity demands that this penalty, which is too drastic, should be amended. I hope he will accept my amendment.

Mr. Chairman: Even if his amendment is carried, so far as his amendment goes the penalty is not touched by the amendment.

Shri Tulsidas: I have suggested this together with the amendment that I have suggested.

श्री जी० एल० चौधरी : सभापति महोदय, चूंकि यह मेरे दोनों अमेंडमेंट एक ही क्लाज से ताल्लुक रखते हैं, इसलिए में आप की आज्ञा से दोनों अमेंडमेंट्स को एक साथ रखना चाहता हूं। मैं ने यह जो संशोधन इस धारा में किये हैं, उन की बड़ी अहमियत है, देखने में ऐसा आया है कि यह कानून जिन लोगों के ल बन रहा है, वह बड़े धनवान हैं, उन लोगों के दिलों में सदैव यह रहता है कि वह अपने पैसे के बूते पर दुनिया की हर एक शह को खरीदने के लिए तैयार रहते हैं। जहां इन को ज़रा भी क़ानून में लचीलापन या ढीलापन मालूम होता है, तो यह सदैव उस का फ़ायदा उठाने का प्रयत्न किया करते हैं। उन लोगों का तो क्या कहना, ऐसा मालूम होता है कि जो हमारे फ़ाइनेंस मिनिस्टर ने इस में थोड़ा सा लचीलापन कर दिया है, एक हज़ार रुपया की जो उस में पेनलटी रक्खी है, वह उन लोगों के लिए कुछ भी नहीं है। मैं तो सुझाव दूंगा कि इस एक हज़ार की पेनलटी को उड़ा दीजिये और उस की जगह जो डबल आफ़ दी स्टेट ड्यूटी है, वह जोड़ दी जाय, यह अपनी जगह पर खास अहमियत रखती है। देखने में आया है कि जितने भी क़ानून बने हैं, हम ने इनकमटैक्स में देखा, कंट्रोल में देखा, आई० पी० सी० में और ऐसी बहुत सी जगह देखा कि जहां भी मुमकिन हुआ उन लोगों ने अपने रुपये के बूते पर अधिकारियों और ज़िम्मेदार लोगों को अपने वश में करने की कोशिश की। यह वास्तव मे बड़े चालाक लोग हैं और अगर मैं उन के इतिहास पर जाऊं तो मुझे यह कहने में कोई हिचकिचाहट नहीं मालूम होती कि यह जो धनवान बने हैं, वह इसलिये बने हैं कि या तो इन्हों ने ग़रीबों का शोषण किया है, या उन बेचारे कंज्यूमर्स जो उपभोक्ता लोग हैं उन के साथ में ब्लैक मार्केट किया है, तब जाकर यह धनवान बने हैं। जब पहले से ही हम को इन की दशा का ज्ञान है, तो हमें इस क़ानून को बड़ी सख्ती से बर्तना चाहिए और ज़रा भी अगर क़ानून में कहीं ढिलाई या लचकीलापन आया, तो ये धनवान लोग क़ानून का बेजा फ़ायदा उठाने का हमेशा की भांति इस बार भी प्रयत्न करेंगे। इसलिए में फाइनेंस मिनिस्टर साहब

से कहूंगा कि मेरे जो संशोधन इस धारा में हैं, उन को कृपया स्वीकार करें।

The Deputy Minister of Finance (Shri M. C. Shah): We cannot accept these amendments. This penalty is absolutely necessary in order to have these forms as early as possible. If there is no penalty leviable these forms will not be submitted and the whole purpose of levying the duty will be defeated. As a matter of fact this Rs. 1,000 will not be the penalty for all the time. It is only in the event of failure to comply with the provisions without reasonable cause. So they will just exercise their discretion. And even if the penalty is levied, they have got another remedy of appeal under clause 61. So I think in order to have a proper administration of the Estate Duty these things are absolutely necessary. Every taxation law has got a penalty. In the case of Income-tax also it is there. So in the case of Estate Duty also it is necessary.

I oppose the amendments.

Shri Tulsidas: I did not say that there is no penalty in other taxation measures. But this is too drastic a penalty, double the amount of duty that is payable.

Mr. Chairman: One thousand rupees or double the amount of the unpaid duty. This is the alternative. I will put these amendments to the House.

The question is:

In page 27, lines 6 and 7, *omit* "or has failed to comply with the said provisions within the time allowed".

The motion was negatived.

Mr. Chairman: The question is:

In page 27, line 8, *omit* "one thousand rupees or".

The motion was negatived.

Mr. Chairman: The question is:

In page 27, line 11, *for* "Controller" *substitute* "Board".

The motion was negatived.

Mr. Chairman: The question is:

"That clause 54 stand part of the Bill."

The motion was adopted.

Clause 54 was added to the Bill.

Clause 55.—*(Executor to specify etc.)*

Shri Krishna Chandra: I beg to move:

In page 27.

(i) line 15, *after* "deceased" *add* "and it shall not be delayed for reasons of failure to submit accounts under section 51 or a certificate under section 58 or section 65";

(ii) *omit* lines 16 to 27.

I have my fear in relation to this clause and the fear is this. Suppose the deceased person has all his cash in the bank and he dies without passing that cash to his successors. Then, I am afraid that his family members will be hard put for want of any money to carry on their regular expenses because they will not be able to get letters of representation or succession to operate on the account in the Bank and therefore, they will be deprived for a long time to come, of any assets left by the deceased. It may be, Sir, that it may take time, a year or so because it is provided in this Bill that within six months the accounts have to be submitted, then these accounts will be scrutinised and finalised and the duty assessed and then only a certificate will be issued by the Controller. Unless that certificate is issued by the Controller, under this clause the heirs will not get a letter of representation and will not be able to avail of the money left by the deceased in the bank. So, it will discourage people investing their money in the banks.

Shri K. K. Basu: The amendment is not in order.

Mr. Chairman: The 2nd amendment?

Shri K. K. Basu: But, he is speaking on it. The whole clause becomes meaningless.

Mr. Chairman: The second amendment, actually, cannot be moved because it seeks to delete the whole clause. He is only speaking on amendment No. 643.

Shri K. K. Basu: If you carry the amendment, it conveys no meaning. What does he mean? Certainly he should furnish accounts. The clause becomes absolutely meaningless if you add this amendment.

Mr. Chairman: If you read both the parts together, it amounts to a substitution. The hon. Member may proceed.

Shri Krishna Chandra: It will discourage these people from investing money in the banks and those people will be better off who keep their money with them or in jewellery, that is, hoarded money, not utilised for any social benefits. If we want to encourage people to put their money in banks, I think all facilities should be given to the heirs of the deceased to be able to operate the account of the deceased for their ordinary daily expenses. We have allowed that for funeral expenses, a sum up to Rs. 1,000 may be taken. Supposing all the money is in the bank and the successors are not able to get a pie. They will be very hard put to it. We have provided in this Bill a number of safeguards for the estate duty to be recovered from the property of the deceased. There is a penalty for default, and there is also a provision that the amount of estate duty will be a charge on the property that passes to the heirs.

Shri S. S. More: On a point of order, Sir, I have tried to read his amendment with this original clause. It makes the whole thing unintelligible. Under Rule 100(iii) an amendment shall not be such as to make the clause unintelligible. Thus, it is out of order. I have tried to understand it. Can an hon. Member discuss an amendment which is out of order?

Mr. Chairman: The hon. Member is referring to part (i) of the amendment.

Shri S. S. More: Parts (i) and (ii) of amendment No. 643 are interdependent. I have tried to read it with the original clause; I could not understand it.

Mr. Chairman: It will read like this:

> "In all cases in which a grant of representation is applied for within six months of the death of the deceased 'and' looks to be unnecessary, it shall not be delayed for reasons......"

Shri S. S. More: What shall not be delayed?

Shri K. K. Basu: All the rest he omits. Where does it end?

Mr. Chairman: Suppose 'and' is omitted, it will read like this:

> "In all cases in which a grant of representation is applied for within six months of the death of the deceased, it shall not be delayed for reasons of failure to submit accounts under section 51 or a certificate under section 58 or section 65."

Shri S. S. More: What shall not be delayed?

Mr. Chairman: The grant of representation The word 'and' seems to be a mistake.

Shri Krishna Chandra: The word 'and' is a mistake in printing.

Mr. Chairman: It is absolutely intelligible if 'and' is omitted. He says the addition of word 'and' is by mistake.

Shri K. K. Basu: If you take away the second part of the amendment, the second part of the clause remains.

Shri S. S. More: I would refer the matter to the superior intelligence of the Finance Minister to find out the meaning.

Mr. Chairman: Suppose lines 16 to 27 are omitted, this is substitution and it is quite intelligible.

Shri S. S. More: With due deference to you, Sir, it is not.

Shri Krishna Chandra: This clause says that no letter of representation will be granted unless the certificate is forthcoming. My amendment seeks to make it read like this. When a person applies for letter of representation, it will not be delayed for want of certificate. It may just read the other way. The amendment is intelligible enough. I have already explained the reasons which have guided me to move this amendment. These reasons are for the benefit of the people who have got small property and who have got all the money in the bank. That is all I have to say.

Shri M. C. Shah: The fears of my hon. friend are misplaced. There are two things. One is accounts are to be produced within six months. That can be done About the certificate, it is not necessary that the estate duty should be paid. The provision is 'has been or will be paid'. If he furnishes security that the estate duty, whichever may be payable, will be paid, he will immediately get the certificate. It is not that the certificate will not be given unless the duty in cash is paid.

Shri Krishna Chandra: Will it not take time?

Shri M. C. Shah: To furnish security?

Shri Krishna Chandra: For the estate duty to be assessed.

Shri M. C. Shah: Assessment is not necessary. You file the return and pay the duty payable or furnish security. Then, the certificate will be given. Afterwards, if assessment is made and more estate duty is payable, you pay at that time. For certificate purposes, you have clause 50A. That would be on the basis of the return.

Shri Krishna Chandra: After the filing of the accounts the certificate will be granted?

Shri M. C. Shah: Provided the estate duty on the basis of the return is paid or security is furnished that such estate duty will be paid.

Shri Krishna Chandra: If what is required is furnishing of accounts, then I do not press my amendment.

Mr. Chairman: He has understood the point and he does not wishes to press his amendment.

The question is:

"That clause 55 stand part of the Bill."

The motion was adopted.

Clause 55 *was added to the Bill.*

Clause 56 *was added to the Bill.*

Clause 57.—(*Limitation for commencing proceedings etc.*)

Shri R. K. Chaudhury (Gauhati): I beg to move:

In page 27, *for* clause 57 *substitute:*

> "57. *Limitation for commencing proceedings for levy of estate duty.*—All proceedings for the levy of any estate duty under this Act shall be completed before three years from the date of the death of the deceased in respect of whose property estate duty became leviable and thereafter no estate duty or any balance thereof shall be realised from the same estate."

Shri Ramachandra Reddy (Nellore): I beg to move:

In page 27, line 40, *for* "twelve years" *substitute* "six years".

Shri Tulsidas: I beg to move:

In page 27, line 40, *for* "twelve years" *substitute* "four years".

Shri K. K. Basu: I beg to move:

In page 27, line 40, *for* "twelve years" *substitute* "twenty years".

Shri Pataskar: I am not moving my amendment. I would like to support the other amendments.

Shri R. K. Chaudhury: I am afraid as usual my amendment must not have received the attention of the hon. Members, and therefore I read it. My amendment reads as follows:

> "All proceedings for the levy of any estate duty under this Act shall be completed before three years from the date of the death of the deceased in respect of whose property estate duty became leviable and thereafter no estate duty or any balance thereof shall be realised from the said estate."

This amendment. it would appear, runs counter to Clause 57 as it stands in the Bill. By this Clause the Government want to keep to itself the right of commencing the proceedings for realisation of the estate duty up to the twelfth year, which means that the Sword of Democles will be kept hanging for so many years.

Mr. Chairman: May I just enquire from the hon. Member the full meaning of his amendment? Does he propose that the levy must be made within three years, or does he propose that the realisation should be completed before the expiry of the three years, because levy and realisation are quite different things? In the first part of his amendment, he speaks only of levy; in the latter part he speaks of realisation. That must be made clear.

Shri R. K. Chaudhury: My point is this, that the estate duty, whatever becomes payable, should be realised and all proceedings completed in respect of realisation of any particular estate duty within three years......

Shri Jhunjhunwala (Bhagalpur Central): Both levy and realisation?

Shri R. K. Chaudhury: Both demand and realisation should be completed within three years.

Mr. Chairman: He should add the words "levy and realisation". Otherwise, it would have a different meaning.

Shri R. K. Chaudhury: The amendment reads:

> "All proceedings for the levy of any estate duty under this Act shall be completed before three years from the date of death of the deceased in respect of whose property estate duty became leviable......"

—it is quite clear—

> "......and thereafter no estate duty or any balance thereof shall be realised from the said estate."

Everything ought to be completed within this time. As laid down in the Clause as it stands now, no proceeding may be taken in respect of collection of estate duty up till 12 years, which means another six years might elapse before the estate duty is actually collected. This is not fair either to the people who are liable to pay the estate duty or to the Government which is going to get this estate duty. Because if latitude is given for 12 or 15 years—the realisation will take about three years or so—the party in the meantime may lose the estate. considerable damage may be caused to the estate, and it is the Government which will suffer. Why should the Government have the right to wait till 12 years in order to find out what actually is the estate duty to be levied and what should be collected from the party.

The Deputy Minister of Finance (Shri M. C. Shah): It is not waiting.

Shri R. K. Chaudhury: In an analogous case of income-tax. I have found it to my own cost that proceedings for realisation of income-tax—enhanced income-tax or income-tax—have been started nearly eight years after the actual income-tax became due—a long time afterwards.

Mr. Chairman: Under Section 34 or otherwise? From the very start was there no notice of demand?

Shri R. K. Chaudhury: The levy will start from the notice of demand. Within six months an account has to be submitted by the legal representative of the deceased, and the proceedings will be started after notice of demand is issued. So, essentially, my duty as a legal representative of the deceased person has to be performed within six months, and thereafter, I say no time should be lost in issuing a notice of demand, and if a notice of demand is issued in time, all the proceedings should be completed within three years, so that the heirs and successors may know where they stand. The heir may have submitted an account saying that his estate is not liable to pay anything and the Government or the authorities keep silent over it, and 11 years or 12 years after they start proceedings for the collection of the duty which is very unfair. In the meantime very probably any estate which is considered to be liable to pay the duty would not be allowed to be transferred or anything done with it. So, the person who is ultimately found liable to pay the estate duty is handicapped in various ways. He does not know whether his estate is liable to any duty. Even if he knows, he cannot do anything with the property. Nobody will think of purchasing a property in respect of which estate duty realisation proceedings are pending, and, therefore the public will be put to great disadvantage. On the other hand, I do not see any difficulty on the part of Government to complete these proceedings within three years which is a fairly long time. So, my objection is that the proceedings should not be kept pending for so many years. The man should not be left in the darkness as to whether he is liable to pay it or not, and all proceedings should be completed. Otherwise, confusion will result. In our country, before 12 years there may be more than one death. The second or third death may have already occurred, and the same estate may have been made liable, in the meantime, in respect of the subsequent deaths. Therefore, it is very undesirable that proceedings should be started after twelve or ten years, and it is very desirable that all proceedings should be completed as quickly as possible.

Shri Tulsidas: According to this Clause 57, proceedings can be commenced even after 12 years. It is stated:

> "No proceeding......shall be commenced after the expiration of twelve years from the date of death......"

This period of 12 years is, in my opinion, too long. This will create great difficulties for the marginal estates, and not for the estates which are big ones, because in the case of the bigger estates, if they have to sell their property, they will have to go to the Controller and get a certificate, and the proceedings will start immediately. But in the marginal cases it will remain as a sword of Damocles. The Controller may value the property over Rs. 50,000—say at Rs. 75,000—and the assessee may consider that the property is not worth beyond the exemption limit. Here the difficulty will be much more, because the sword of Damocles will be hanging on this particular type of estate, for 12 years. In Income-tax the period is four years.

Shri M. C. Shah: Eight years.

Shri Tulsidas: For the fraudulent acts you have that period, but here there is no such question. Otherwise it is four to six years for the commencement of proceedings. Here it is not a question of any fradulent acts, but commencement of proceedings. As I pointed out earlier, for bigger estates, it will be necessary to go immediately and ask for commencement of proceedings, because without getting a certificate of the Controller, they cannot dispose of the property. In the case of persons who have marginal estates, there will be much more hardship. The assessee may say that the property was valued at less than the exemption limit, while the Controller may say that it

[Shri Tulsidas]

was valued over and above the exemption limit. In such a case what will happen? Supposing after a period of ten years, the proceedings are started, what will be the valuation of the estate? It will create all sorts of difficulties, much more than in England. I do not know what the provision is in the U.K. Act. But I do not think that there is any provision of this type at all in the U.K. Act. It is a new provision we are putting in this Bill. I can quite understand the justification for having a period of six years, just as in the Income-Tax Act. But why should it be more than six years? I have put in an amendment to limit the period to four years. In the case of marginal estates, the opinion of the assessee may be different from that of the Controller, and the assessee may not know whether the estate duty can be leviable or not. All sorts of these difficulties will creep in. I do not see any justification for the 12 year period. I am unable to see any equity or logic in this 12 year period.

Shri M. C. Shah: In your minute of dissent there is no mention about this.

Shri Tulsidas: If you read carefully my minute of dissent, you will find that at the very beginning I have pointed out that I am making my observations only on a few important clauses.

Shri M. C. Shah: You have referred to clauses 54, 60, 61 and 62, but there is no reference to this matter

Shri Tulsidas: If you read my minute of dissent, you will find that I have already referred to his provision I am a responsible Member, and I have put in this amendment.

Mr. Chairman: The hon. Member is not debarred from moving his amendment.

Shri Tulsidas: I do not think that the fact I have not referred to it in my minute of dissent, is any justification for retaining the 12 year period This is a point on which I feel strongly

Supposing the Controller does not like a person, he can commence the proceedings any time within twelve years, and this will put the assessees to a lot of hardship. In the Income-Tax Act, the period is only four years in normal cases. I do not understand why the period here should be 12 years. I strongly request the hon. Finance Minister to see that this period is fixed on the basis of that in the Income-Tax Act.

Shri K. K. Basu: In my amendment No. 458, I have suggested that the period should be increased to 20 years. I shall deal with my reasons for doing so, later, but I shall reply first to the points which my hon. friend Mr. Tulsidas has raised. He said that there will be a lot of hardship caused in the case of persons owning marginal estates. Those of us who were in the Select Committee discussed this matter thoroughly, in the light of the difficulies that might in individual cases arise, for the sale or disposition of the property. That is why clause 33 was deliberately incorporated in the Bill, to the effect any person interested may apply to the Controller for a certificate to the effect that no estate duty is chargeable on that estate. Even in the case of persons who own property worth a lakh of rupees, in the case of non-Hindu joint families, and Rs. 50,000 in the case of others, naturally the purchaser or the seller will certainly obtain a certificate on the above lines. Otherwise nobody will buy that property, and it will be very difficult for the person who wants to sell it to anybody. I do not think there will be any difficulty so long as the provision for this is there in clause 73, even in the case of marginal estates.

The next point which my hon. friend Mr. Tulsidas referred to was that the period under the Income-Tax Act was less. But we have got to differentiate between the two cases. There is a qualitative difference between estate duty and income-tax. Income-tax is a current thing, and is a recurring affair If any one escapes one year, possibly he may be caught next year. If he finds that he is in difficulty with the income-tax people, and he is caught some time, he will be careful to see that his books are properly kept, unless he is so intelligent or clever enough to dupe the administration for years together, so that he may not be assessed income-tax at all.

The hon. Member then mentioned that there is no similar provision in the U.K. Act. That is because in U.K. letter of administration or probate is a compulsory thing. Here in India for the devolution of immovable properties, there is no necessity for any such letter of administration. If there is a will, all that is to be done is that a probate should be taken, and if a person dies intestate, his heirs just step into his shoes, and there is no necessity of obtaining any letter of administration from the court. In England, there is no provision like this, because no one can escape from the payment of estate duty, because the letter of administration should be obtained, before the property can be transferred.

I now come to the question of enhancing the period to 20 years. I would like to stress on two factors here. Under clause 51(2), we have:

> "Notwithstanding anything contained in sub-section (1) where an heir-at-law proves to the satisfaction of the Controller that some other person is in adverse possession of any assets of the deceased, the heir-at-law shall not be accountable for the portion of the estate duty payable in respect of such assets."

And the Controller may thereupon run after the person who is in adverse possession of the assets of the deceased. In a vast country like ours, it may happen that a person who dies may live in Delhi, and he may have a certain property in his village, far away in Bengal or Madras, his people who may not be interested in the ancestral property, may not know anything about it, while the property might have been enjoyed by his distant relations over a long period. But as the heir of the person who died, and whose name appears in the revenue record in the case of lands, and in the municipal records in the case of houses, may within a period of 12 years try and get back the possession. The limitation in the case of adverse possession is 12 years. If the heir gets the property in the 12th year following the death of the deceased, and the Controller comes to know of it after 12 years, that estate duty is leviable on such property, then that duty will be barred, because of the limitation of 12 years.

In clause 60, we have provided for the rectification of mistakes relating to valuation for estate duty. Here we have provided for a limitation of three years. If after the period of three years, and before the expiry of the period within which possession can be had, a certain property comes into the hands of a person who was not found accountable first, then he will be left out of the clutches of the law, if we put in a period of 12 years only for being the limit up to which commencement of proceedings may be made. As I have pointed out earlier, in our country it is not necessary for the heirs to obtain a letter of administration from the court, for stepping into the shoes of the deceased for the purpose of possession. Therefore I feel that the period of limitation under this clause should be extended beyond 12 years.

There is another reason also why I have put in the period of 20 years. In clause 69, we have provided, that after the expiration of 20 years from a death, the Board may remit the payment of any duty remaining unpaid, or any part thereof, or any interest thereon. The authorities concerned are competent to do this.

Therefore, I feel, Sir, that if you keep the period of limitation at 20 years, an opportunitiy will be given to the assessee to pay up his dues and if after 20 years you find that it is so difficult for him to pay his dues, you might in your discretion remit such payment of estate duty or interest, whatever it may be.

[Shri K. K. Basu]

Therefore, in this case also I feel that it is absolutely necessary that we have the same period of limitation here, more so because of the peculiar system in our country, a peculiar system in which probate and letters of administration are not necessary so far as immovable property is concerned. Therefore, I suggest that in this case also Government be good enough to accept the amendment. Because it is a question of initiating the proceedings and if an assessee who owns property in the marginal cases wants to dispose of it and he thinks that it is necessary for him to obtain a certificate under the provisions of section 73, he can just approach the Controller and obtain a certificate whether he is liable to pay the estate duty or not. Therefore, I do not think there will be any hardship if we fix the period at 20 years. On the other hand, I feel that in view of the vastness of our country and also the possibility of persons having business in one part of the country having property two thousand miles away, possibly in the territory of another State, the possibility of a large volume of Estate being left out of the purview of this law, we should consider the question of enhancing the period to 20 years and I hope the Finance Minister will give favourable consideration to it.

Shri U. M. Trivedi: This question of limitation, as has been said at many places—the plea of limitation—is always a plea of a dishonest man and, therefore, for anybody to come forward and say that since he has escaped duty for 12 years, he must be allowed to escape, will certainly be a wrong proposition. But we have to see whether it will apply in our country where the Government also acts dishonestly. You know ordinarily the law says that there should not be any limitation as against the Government. Similarly, if the Government agrees to this proposition that there should not be any limitation in favour of the Government, then it would be something. We have got this ordinary Railways Act under which lakhs and lakhs of rupees worth of claims are defeated simply because the Government somehow or other manages to escape the liability by the special limitation of one year. At the end of one year, lakhs and lakhs of rupees are not paid to the public only on this plea that limitation is passed. The further limitation of six months is always taken advantage of by our Government. It is not so in England. In England, it is considered very derogatory for a member of the Government or at least the Advocate-General to ever raise the plea of limitation. It is not so here. There he cannot take that plea and if he takes it, it is a question of ridicule for him. It is considered most dishonest. At the same time, their Limitation Act itself provides that the plea of limitation shall only be considered by the court if raised by the party. It is not so with us. Our Government of the past, whom we could very easily dub dishonest, wanted to save money for themselves and incorporated it in our own Act which we have not yet changed. Here not only the plea of limitation will be looked into by the court, but it will be looked into *ipso facto*, of its own. And if it is found that in any manner it is sustained, it will dismiss the suit. Under those circumstances, with this background before us, it is really very hard on anybody to have this litigation for this estate duty hanging over his head for a period of 12 years. I agree with the view pressed by Mr. Tulsidas on this point that generally these 12 years will be a period of fear for those whose estates are not obviously of such a nature which will be taxable. It is only in the case of such people who will be on the borderline who may or may not escape the duty for 12 years. So the hardship to be caused to these people must be avoided. It is not the rich people who are affected. The rich people will certainly pay tax. They cannot escape for 12 years. It is impossible for them to escape for 12 years. Therefore, I say that any vindictiveness, which is generally shown by our Communist friends on this side who want to make it 20 years, should be avoided. They must also realise that there should not be vindictiveness on these poor middle class people who will be generally affected.

Shri S. S. More: These poor rich people.

Shri U. M. Trivedi: Not poor rich people. Let them make it 50 years for those who are very rich. They do not care for it, because generally they will be taxed within a month of death. They are not to be affected by this. But it is only those who will be on the borderline who will be affected by this. And we must not be obsessed with the idea that because they are rich, therefore they must be squeezed: because they show any tendency of capitalism, therefore you must jump upon them. That sort of idea must go away. You should not develop such an idea. This is merely an obsession. It should disappear and, therefore, I submit, Sir, that if we can keep a reasonable period—not necessarily that of 12 years, but have it as 3 years or have it at the most as 6 years—I think it would be a reasonable concession which the Finance Minister can grant to those who may not be rich enough apparently whom the Controller or the estate duty authorities would be able to jump upon.

Shri V. P. Nayar: Sir, I want to speak.

Mr. Chairman: I will first give opportunity to those who have moved amendments. Mr. Ramachandra Reddi.

Shri Ramachandra Reddi: I have not very much to add to the arguments that have been advanced in favour of reducing the period of suspense for twelve years. It is undesirable, both from the point of view of the Government and from the point of view of the assessee, that this period of suspense should be so long. As a matter of fact, it will encourage a sort of suspicion mutually and it will be very difficult to get over that feeling of suspicion on either side. As has been pointed out by Mr. Tulsidas, the marginal assessees will be very much affected if they are kept in suspense for such a long period of 12 years. It would be very reasonable, as suggested by other friends and also as suggested by my own amendment, if the period is reduced to six years. It would probably be in conformity with the Income-Tax Act. To keep open this question for such a long period as twelve years would only mean that it will be kept open for all time to come. Within the period of twelve years, it is possible there might be other deaths in the family and then there will be a continuous process of suspicion, assessment and harassment. Therefore, I would urge upon the Government that the period might be reduced froi twelve years to six years.

Shri Pataskar: So far as this claus is concerned,—I know that ordinar ly under the English Act there is no such period prescribed—in the conditions in which we are at the present moment, having decided to put some reasonable time limit within which the proceedings should start. I think the period of 12 years is too excessive. I do not want to add to the arguments that have already been advanced.

Shri S. S. More: One question, Sir.

Shri Pataskar: I have not yet started.

Shri S. S. More: What is the ordinary period of limitation for the Central Government to file suits?

An Hon. Member: Twelve years.

Shri S. S. More: It is 60 years.

Shri Pataskar: I will try to develop my own point which I hope my hon. friend Mr. More will appreciate as well. though we might have differences with respect to other things like capitalism etc. I can understand if

[Shri Pataskar]

there is no provision as in the United Kingdom. But, in the conditions existing in India it has been decided that some limit should be fixed and I think it is rightly so. As the hon. Member Mr. Tulsidas pointed out, so far as the big estates are concerned they would escape because nobody would wait for 12 years. With regard to the rendering of accounts the mercantile community will not be affected because they have the accounts. Only the marginal cases where the value of the property is Rs. 50,000 or Rs. 60,000, where the question will arise whether it is liable to pay tax, will be affected.

Sir, in the conditions existing in India, unfortunately, there is not much respect for the legal profession. Somehow or other the lawyers get to know many things that happen as a result of legislation that is passed on different subjects. We know there is the Sarda Act, for instance. As we go into the villages we know girls are married before 12 years or 15 years or whatever the age limit might be. If there is a quarrel between two persons then one makes an application, goes to the court, not for the purpose of vindicating social reform but because there is this ill-feeling between the two. I would say, from my experience as a lawyer, that in many cases it is not with a view to social reform but because of the animosity that these cases come to court. I do not mean this is always the case. Therefore looking to that aspect of the matter, I fear to think of what would happen in all these marginal cases. Suppose a man owning property worth Rs. 50,000 dies. The estate is not liable but after 10 years somebody who is inimically disposed towards the successor might say that the property was worth at that time Rs. 75.000 and not Rs. 50.000. Since you can start proceedings within a period of 12 years, it would not be beyond our comprehension if such things happen in the conditions that exist in our country. One might find an officer also who can give him a ear, for reasons best known to him and the persons who start this. Proceedings may be initiated and then to find out the value valuers might come in and try to find out the value of the property as it was some 10 or 12 years before. As I said, yesterday, that is my difficulty. I can understand if the prices were fixed then. We have already passed that clause. We have to find out after 10 or 12 years what was the market value of the property at the time of the death of deceased. Sir, all sorts of complications will arise. Therefore, to my mind, this period of 12 years is really excessive. It may not serve any purpose. My hon. friend Mr. Basu moved an amendment for having 20 years. You may as well have it as 50 years. I can understand that we have realised that a time limit has to be placed. But I believe putting it at 12 years is too excessive. It is liable to be abused and liable to create difficulties even for the valuers. Therefore, it will be a serious harassment rather than any gain to the Government. It should therefore normally be 4 years, 5 years and in no case exceeding 6 years. I would therefore request the hon. Finance Minister to consider this. Look to the cases in which it would apply, and whether a provision of this nature is liable to lead to harassment. As I said at the time of the first Bill, we are all in favour of the estate duty but we want to try, as far as possible, to avoid all chances of undue harassment. So far as the question of the recovery of the duty is concerned, let every step be taken; nobody wants to encourage evasion of it. Having conceded that some limit has to be fixed, why should it be 12 years; 6 years would be enough. In 12 years by adverse possession a man becomes the owner of the property. How are you going to call the man to account after 12 years?

1 P.M.

Shri V. P. Nayar and **Shri Tek Chand** *rose*—

Mr. Chairman: I think this question has been sufficiently discussed.

Shri V. P. Nayar: There are certain aspects......

Mr. Chairman: I think both the sides have been put before the House and all the reasons have been given. I do not understand what more has to be done.

Shri Tek Chand: There are certain points left out.

Shri V. P. Nayar *rose*—

Mr. Chairman: The hon. Member is going on rising when I am on my legs. It is not fair. If an hon. Member wants to speak and wants to insist upon it, that would not as a matter of fact in every case induce me to ask him to speak. The matter has been thoroughly discussed in my humble opinion and I think I need not call upon any other Member.

Shri Tek Chand: We have made very good speed and if you will allow this matter to be discussed for a little longer there are some new points of view which have not been presented by anybody. You may therefore kindly allow......

Mr. Chairman: He has himself tabled so many amendments and in respect of this there are no other amendments.

Shri M. C. Shah: He has also written a Minute of Dissent.

Mr. Chairman: Whether it should be four years, five years, six years or twenty years—that is the only question.

Shri Tek Chand: If you will allow five minutes.........

Mr. Chairman: There is no reason why I should allow the hon. Member five minutes when I have not allowed Shri V. P. Nayar those five minutes.

Shri Tek Chand: You may allow for him also. If you could kindly give fifteen minutes some contribution could be made.

Shri V. P. Nayar: There are certain aspects which have not been discussed.

Mr. Chairman: To every question this can be said, that some new contribution could be made. After all the Chairman has to decide whether the matter has been fully discussed or not, and at present we are very much pressed for time. I do not see any reason why I should allow anybody to speak on this further. I am very sorry.

Shri V. P. Nayar: We are ahead of time.

Mr. Chairman: The hon. Member may speak on any other motion. I shall call upon the hon. the Finance Minister.

Shri C. D. Deshmukh: Sir, I think in this matter one ought to go back to the proceedings of the Select Committee. It is true, as my colleague has said, that after the Select Committee report was written it did not strike any hon. Member that a change ought to be made. And at that time it was recognised that neither in the United Kingdom nor in the U.S.A. is there any time limit for starting proceedings for imposing Estate Duty.

Shri Tek Chand: It is there in U.K. —if the hon. the Finance Minister would look at page 335 of Dymond. It is six years in one case and twelve years in the other.

Shri C. D. Deshmukh: Anyway, this amendment was deliberately made by the Select Committee because it was felt that in a large number of cases where the total value of the property is below the maximum limit it may be that the owner does not take an exemption certificate for many years. Later on when the property has to be sold by the next owner there might be unnecessary difficulties in getting exemption certificates. And that was the reason which influenced the Select Committee. They put twelve years because this is the usual period of limitation in cer-

[Shri C. D. Deshmukh]

tain classes of mortgages. Twelve years is the period of limitation for suits in respect of movable and immovable properties. Twelve years is the period for execution of decrees of courts. So far as Crown Duties are concerned, of course, as some hon. Members have pointed out, there is no limitation. But for these considerations, I think, we should have followed the majority practice and not put any limit at all. Therefore, for hon. Members to say "if you are putting some kind of a limit then do not put the limit"—this does not appear to me to be valid because it has to serve a certain purpose. Now one has to consider this clause in relation to the operation of the other clauses *viz*. 58, 59 and 60. Now the fear that in marginal cases duty might remain unpaid seems to be groundless because in the ordinary case an account will be delivered and a certificate will be given either that the duty is not payable, or the duty has been paid, or that the duty will be paid. Now it seems to me that this certificate will govern a very large number of cases. Apart from those cases which the Select Committee had in mind one must also, of course, bear in mind the question of possible concealment and that possible concealment might arise even in respect of a large estate. You might have an estate worth ten lakhs of rupees declared and yet there may be some portion which may not be declared. It is to deal with such cases that you are going to come to Clause 59.

Shri N. C. Chatterjee: They would not come under it. It has already commenced in the proceedings there.

Shri C. D. Deshmukh: Proceedings have commenced in respect of property which has been declared but if one were to discover property which has not been declared, certainly then some period is necessary. This period of 12 years will also cover that. Therefore, this is analogous to the case of concealment.

The hon. Member made a great point; he said it is four years in income-tax but for the purposes of concealment for commencing proceedings it is eight years and one year for finalising *i.e.* nine years. Therefore, the period that we have chosen is more or less comparable to similar periods in other cases. While there is something to be said, in my opinion, for a longer period like twenty years and so on, I think this is the case where, if at all possible, one ought to abide by a decision which was taken by the Select Committee and which no Member of the Select Committee at that time thought could impugn an additional advantage that this provision provides the golden mean. If you add 12 & 8 or if you add 4 & 8 in one case it comes to 20 —and if any one were to find a golden mean—it is exactly 12.

Shri Tek Chand: Only one question. Has the attention of the hon. the Finance Minister been drawn to fact that in English law under Section 8, sub-section (18) of the Finance Act of 1894 (for the sake of convenience you may refer to Section 334 of Dymond) it is provided:

> "A *bona fide* purchaser for a valuable consideration, without notice of the liability, is not accountable for the Estate Duty on property purchased by him."

There is no such provision in our Estate Duty Bill.

Mr. Chairman: I do not think it has got any relevance here.

Now I will put the amendments to the vote of the House.

The question is:

In page 27, *for* clause 57 *substitute*:

> "57. *Limitation for commencing proceedings for levy of estate duty.*—All proceedings for the levy of any estate duty under this Act shall be completed before three years from the date

of the death of the deceased in respect of whose property estate duty became leviable and thereafter no estate duty or any balance thereof shall be realised from the said estate."

The motion was negatived.

Mr. Chairman: The question is:

In page 27, line 40, *for* "twelve years" *substitute* "six years".

The motion was negatived.

Mr. Chairman: The question is:

In page 27, line 40, *for* "twelve years" *substitute* "four years".

The motion was negatived.

Mr. Chairman: The question is:

In page 27, line 40, *for* "twelve years" *substitute* "twenty years".

The motion was negatived.

Mr. Chairman: There is an amendment in the name of Shri Pataskar "for twelve years substitute three years".

An Hon. Member: He is not in the House.

Mr. Chairman: I think he said that he moved. He spoke also in favour of it.

An Hon. Member: It has not been moved:

Mr. Chairman: Then it need not have the leave of the House to be withdrawn.

The question is:

"That clause 57 stand part of the Bill."

The motion was adopted.

Clause 57 was added to the Bill.

Clause 58 was added to the Bill.

Clause 59.—(*Controller's powers etc.*)

Shri U. S. Dube (Basti Distt.—North): I beg to move:

In page 28, *after* line 20, *insert*:

> "(3) If the Controller is of opinion that the person liable for the payment of estate duty has wilfully avoided delivering the account or has knowingly not accepted the account or his liability, he shall in addition to the duty determined be further liable for the cost of estimation and determination of the estate duty."

My amendment purports to put on the statute a new sub-clause to this Clause. Now it will be a check for the evaders. I do not wish to inflict a speech in support of it. Now if the hon. the Finance Minister thinks that this sub-clause is necessary and will be a weapon in his armoury for dealing with evaders of the tax then I would request him to accept the amendment.

Shri C. D. Deshmukh: For the time being I do not think any such sharp weapon is necessary.

Mr. Chairman: The question is:

In page 28, *after* line 20, *insert*:

> "(3) If the Controller is of opinion that the person liable for the payment of estate duty has wilfully avoided delivering the account or has knowingly not accepted the account or his liability, he shall in addition to the duty determined be further liable for the cost of estimation and determination of the estate duty."

The motion was negatived.

Mr. Chairman: Now I will put the clause to the vote of the House.

The question is:

"That clause 59 stand part of the Bill."

The motion was adopted.

Clause 59 was added to the Bill.

Clause 60.— (*Rectification of mistakes etc.*).

Mr. Chairman: Clause 60. There are three amendments 175, 177, and 178 standing in the name of Shri Tulsidas.

Shri S. S. More: Well, we have travelled faster than imagined by the Business Advisory Committee; we are much ahead of the schedule fixed by them, and so we need not have the afternoon session.

Mr. Chairman: We will consider that. Let this one minute be not taken by him.

Shri Tulsidas: I beg to move:

(1) In page 28, line 26, *after* "property" *insert* "or of the inclusion of any property on which estate duty is not properly chargeable under this Act".

(2) In page 28, *for* lines 39 to 43, *substitute*:

> "(2) in case the property of the deceased is already divided amongst the heirs, the additional duty shall be payable proportionately by all persons who have inherited the property passing on the death of the deceased."

(3) In page 28, lines 47 and 48, *for* "or objecting to any penalty levied by the Controller under section 54" *substitute*:

> "or objecting to any order, determination, decision or levy of penalty by the Controller under any section of this Act".

Mr. Chairman: The House now stand adjourned till Four O' clock today.

The House then adjourned till Four of the Clock.

The House re-assembled at Four of the Clock.

[MR. DEPUTY-SPEAKER *in the Chair*]

Clause 34.—(*Rates of duty etc.*)

Mr. Deputy-Speaker: Hon. Members are aware that a point of order had been raised from both sides with respect to some amendments relating to Clause 34, and also regarding the proposed amendments to the amendment moved by the Finance Minister regarding the Second Schedule seeking to include the rates of duty. Yesterday, I set out the various points that had been raised. In so far as any amendment seeks to increase the rate of duty, it is common ground that both under Article 274 and Article 117 of the Constitution, it requires the previous recommendation of the President or the sanction of the President.

Doubts were raised regarding the other one. It was contended that under Article 274—which is a separate Article—when the States are interested in a particular duty or the imposition or the variation of a tax, the previous sanction of the President to the amendment or to the Bill is necessary.

It was suggested by the hon. Member who raised the point of order that this applied not only to cases where the rates are sought to be increased by the amendment but also where the rates are sought to be reduced, and this was reinforced by a reference to Article 117-proviso, where it is said that whenever, under the Constitution it is thought that an exception could be made in favour of those amendments which reduce the duty, a specific provision has been included by way of proviso as under Article 117. The absence of a similar proviso under Article 274, according to the hon. Member who raised the point of order, made all the difference.

I had suggested that other hon. Members who had no opportunity to participate in the discussion yesterday might kindly write to me communicating whatever they wanted to say. I got a letter from Shri Telkikar. His arguments are directed towards showing the difference between Article 117 and Article 274. He says that people are liable to be adversely affected by raising the tax and therefore an amendment proposing enhancement of the tax requires the previous recommendation of the President, and amendments proposing a reduction or the abolition of a tax do not require such recommendation. But he says that under Article 274 both enhancement and reduction of a tax affect adversely the States, *viz.* if the tax is enhanced, it is against the interest of the people of the States; and if the tax is reduced, it is against the interests of the State Governments. Therefore, in both the cases, the amendments affect adversely. That is why, he says, no exception is made in the case of reduction by incorporating in Article 274. a proviso similar to the one in Article 117. That is the view held by Shri Telkikar.

As against this, I was informed that it is in the general principles that wherever a particular tax is sought to be imposed, that ought to be treated as the ceiling, and whereas it is open to the Parliament to avoid this tax altogether, that is to say, to refuse its assent to the imposition of the tax, it must also be deemed to have the right to reduce the tax from the rate which has been originally proposed. The bigger rate includes the smaller rate, and that is why a proviso to Article 117 is unnecessary but by way of abundant caution it has been incorporated. Therefore, a similar proviso was not introduced in Article 274 and inspite of the absence of that proviso on the general principles it ought to be allowed. There is very great force in that argument.

But I find that on another point I may dispose of this point of order and it is not necessary for me to give a ruling upon this point.

Now, the other point raised was that a tax—that is variation of a tax—refers only to a variation of an existing tax. This was the point that was raised by the hon. Finance Minister. The hon. Law Minister held a different view that it refers not only to a tax already imposed but also to a tax that is sought to be imposed now. I had a look at the proceedings of the Constituent Assembly where Dr. Ambedkar, who was piloting the Bill—the Constitution Bill—refers to this very clause. That is article 254(a). It was re-numbered later. He says:

> "So, I might mention one of the reasons why we felt that at the fag end, so to say, this new article is being inserted in the Constitution. A Similiar provision exists in the Government of India Act. The Drafting Committee considered the matter. They did not think it necessary to incorporate and transfer that article into the new Constitution. However, when a conference of the framers was held, it was suggested that such an article would be useful and perhaps necessary because once an allocation has been made by Parliament between the Provinces and the States, such an allocation should not be liable to be disturbed by any attempt made by any private member to bring in a Bill to make alterations in matters on which the Provinces become interested by reason of the allocation. It is because of this that the Drafting Committee has now brought forth this amendment in order to give an assurance to the Provinces that no change will be made in the system of allocation unless a Bill to that effect is recommended by the President."

Therefore, the object of the framers is to apply this only to cases where if there is already an existing tax and whenever a variation is sought to be made in an existing tax, it ought not to be done to the prejudice of a State to which it has been allocated. I think there is a lot of force in this argument, that this must be applied to an existing tax. Whatever it might be with respect to the definition of a tax in article 110, so far as article 274 is concerned, after mature consideration and also

[Mr. Deputy-Speaker]

looking into the passage that I read out from the Debates of the Constituent Assembly when this definition was framed,—the speech of Dr. Ambedkar—I am convinced that the definition of tax in article 274 must be confined to an existing tax. If it is so confined, these various amendments to the schedule—to the amendment proposed by the hon. Finance Minister in the schedule reducing the tax—are not variations of the tax, because there is no tax. They do not require the sanction of the President. But in the schedules that are sought to be substituted for the schedule proposed by the hon. Finance Minister, there are some items which seek to impose, increase the burden, though they may not be variation of tax, because there is no tax already in existence. Variation may mean both increase and decrease. But according to me, a tax means only a tax which is already in existence, and on that ground a reduction of the proposal does not require sanction. With equal force it may be said that an increase on the higher incomes or higher valuation of property may also, on that ground, not require the sanction of the President. But on another ground, namely, that it leads to a higher imposition of tax—not a variation, it means a higher imposition of tax—then, it requires the sanction of the President. There is no inconsistency between the one and the other. Notwithstanding the fact that it is not a tax already in existence, if the proposal for the recommendation of the President has been made, it is because the proposal of the hon. Finance Minister is sought to be increased by another proposal, that is, an additional imposition of tax, and it is on that ground it requires the recommendation. Therefore, in those schedules tabled by the hon. Members as amendments to the amendments of the hon. Finance Minister, where any item seeks to impose a higher duty than the duty proposed in any slab by the hon. Finance Minister, those items are out of order, because they require, as they stand at present, the previous sanction of the President. My remarks dispose of the amendments to the second schedule.

The only other thing that remains for consideration is the other set of amendments—amendments to clause 34. There are amendments which seek to increase the limit of exemption from Rs. 75,000 to a lakh of rupees and above. There are some other amendments which seek to decrease the Rs. 75,000 to something less. So far as this is concerned, if it is a matter of increase, it only decreases the amount of duty as a whole. I have serious doubts as to whether when an imposition or a variation of a tax is contemplated, an incidental amount above or below that would come strictly under this article. We will assume the rates are not here. The exemption alone will be there. We have, in the other portions under exemption under clause 32, allowed them to pass,—I think rightly so. This does not come either under article 274 or 117. Now, even otherwise, raising the limit from Rs. 75,000 to Rs. 1 lakh leads only to a reduction of the amount. Even on that ground, reduction does not require, even under article 274, the previous sanction of the President. But I think that so far as amendments to clause 34 are concerned, they stand in a different category. They do not come either under the imposition of a tax or under whatever indirect effect they may have. Therefore, I find that none of the amendments require the sanction of the President.

Shri A. M. Thomas (Ernakulam): May we know your ruling regarding the amendment to the additional clause 37A?

Mr. Deputy-Speaker: I am coming to that.

Shri R. K. Chaudhury: My amendment No. 587 may be put to vote.

Mr. Deputy-Speaker: If the hon. Member is anxious, I will put it.

Now, the amendments to clause 34 as accepted by the Finance Minister.

Shri Barman (North Bengal—Reserved—Sch. Castes): My amendment No. 281 is there.

Mr. Deputy-Speaker: Is it in the order of numbers or in the order of moving? I will put both these amendments to the vote.

Shri H. G. Vaishnav (Ambad): Amendment No. 389.

Mr. Deputy-Speaker: All right. According to serial number, amendment No. 281 seems to be the earliest.

The question is:

In page 21, line 7, *for* "rupees seventy-five thousand" *substitute* "rupees one lakh".

The motion was adopted.

Mr. Deputy-Speaker: The other amendments relating to the same matter, 587 by Shri R. K. Chaudhury, 347 by Shri S. C. Samanta and 380 by Shri Vaishnav are all barred.

All the other amendments are barred, amendments relating to increase or decrease from Rs. 75,000, by virtue of the decision of the House on amendment No. 281. This disposes of all the amendments.

I have already put the amendments moved by the hon. the Finance Minister to the vote of the House. Now, the question is:

"That clause 34, as amended, stand part of......

पंडित ठाकुर दास भार्गव : जहां तक सवाल इस सेक्शन ३४ का है मैं उन मेम्बर साहिबान को जिन की तहरीक पर दफा ३४ में यह थोड़ी सी तफरीक की गयी है कि ७५ हजार से १ लाख कर दिया गया है उन की जीत पर मुबारकबाद देता हूं, लेकिन ताहम मैं इस को नहीं छिपा सकता कि मेरी ज़ाती राय में यह जो ७५ हज़ार से एक लाख तक सीमा बढ़ायी गयी है यह उसूलन दुरुस्त नहीं है। मैं यह अर्ज करना चाहता हूं कि यह जो सीमा बढ़ायी गयी है मैं इस के हक में नहीं हूं। दूसरी बात जो मैं अर्ज करना चाहता हूं वह यह है कि इस दफा में यह जो तमीज़ की गयी है और दो तरह की लिमिट बना दी गयी है, एक मिताक्षरा फैमिली के वास्ते पचास हजार तक और दूसरी नान मिताक्षरा फैमिलीज़ के वास्ते एक लाख तक, मैं इस की सख्त मुखालिफत करना चाहता हूं। (हिअर हिअर)। और बावजूद इस हियर हियर के मेरे दिमाग और मेरे दिल पर कोई असर नहीं है कि चन्द मेम्बरान को मेरा इस किस्म का अपोजीशन पसन्द नहीं है। मैं अदब से अर्ज करना चाहता हूं कि जब यह मेम्बर साहिबान अपने दिल में सोचेंगे और अपने दिमाग में इस को दखल देंगे तो उन को मालूम होगा कि हम ने बहुत गलती की कि हम ने यह तमीज़ रवा रखी। मैं हाउस की खिदमत में अदब से अर्ज करूंगा कि जब हम ने कांस्टीट्यूशन की दफा १५ को पास किया था तो हम ने यह निश्चित कर दिया था कि जहां तक टैक्सेज़ की लाइबिलिटी का ताल्लुक है सारे हिन्दुस्तान में ईक्वालिटी होगी। हिन्दुस्तान में कोई किसी किस्म का डिस्क्रिमिनेशन इन्सान इन्सान के दरम्यान नहीं होगा। हम ने जो सारा कांस्टीट्यूशन बनाया वह इसी बेसिस पर बनाया कि वह हर तरह पर सिटीजन्स के राइट्स को देखे न कि फैमिलीज़ और कम्यूनिटीज़ के राइट्स को देखे। मैं यह अर्ज करता हूं कि इस बिल में मिताक्षरा और नान मिताक्षरा फैमिलीज़ में जो टैक्स के बेसिस बनाकर डिस्क्रिमिनेशन वाजिब रखा है वह मुनासिब नहीं है।

Shri Somana: On a point of order, when we have passed all the amendments, can there be any comments on them now?

Mr. Deputy-Speaker: But on the clause, as a whole, the hon. member is making certain remarks.

पंडित ठाकुर दास भार्गव : मैं अदब से गुजारिश करूंगा कि मैं क्लाज पर बहस कर रहा हूं और क्लाज़ के इस हिस्से की मुखालिफत करता हूं । इसलिए जो मैं अर्ज़ कर रहा हूं वह कांस्टीट्यूशनली भी दुरुस्त है और इस सिलसिले में मैं कुछ वजूहात देना चाहता हूं । मैं ने पहली वजह यह दी कि इस क्लाज़ के पास करन से हम कांस्टीट्यूशन के बखिलाफ जायंगे और हम अपने कानून के अन्दर डिस्क्रिमिनेशन पैदा करेंगे ।

जनाब वाला को मालूम है, मुझे हाउस में दुहराने की ज़रूरत नहीं, कि पिछले ८० साल से मिताक्षरा जाइंट फैमिली पर जो इनकम टैक्स आयद किया जा रहा है उस के अन्दर तमीज़ रवा थी और पिछले २४ या २५ साल से जब से कि मैं इस पार्लियामेंट के अन्दर हूं उस वक्त से मैं बराबर इस बात पर तवज्जह दिलाता रहा हूं कि यह डिस्क्रिमिनेशन नहीं रहना चाहिए । जब बजट के मौके पर फाइनेन्स मिनिस्टर तकरीर करते रहे वह मानते रहे कि यह वाजिब नहीं है और कहते रहे कि हम इस को टैक्सेशन इन्क्वायरी कमेटी की रिपोर्ट आ जाने के बाद ठीक करेंगे । वह कमेटी भी मुकर्रर हो गयी लेकिन पिछली मर्तबा भी फाइनेंस मिनिस्टर साहब ने इस को कबूल नहीं फरमाया ।

जब यह बिल हाउस के सामने आया तो मैं ने ऐतराज़ किया कि कानूनन इस के अन्दर पैरिटी होनी चाहिए । एक तरफ़ तो इनकम टैक्स इस बेसिस पर लगाते हैं कि हिन्दू जाइंट फैमिली नान पारटीशन्ड है और वह जाइंट फैमिली है इस वजह से ऐसा टैक्स लगाया जाता है, लेकिन जिस वक्त आप यह एस्टेट ड्यूटी बिल लाते हैं उस वक्त आप भूल जाते हैं कि मिताक्षरा फैमिली पर परसनल ला के मुताबिक यह टैक्स नहीं लग सकता । उस वक्त यह बतलाया गया कि जहां तक टैक्स का सवाल है यह मामला टैक्सेशन इन्क्वायरी कमेटी के सामने जायगा । लेकिन मैं अदब से अर्ज़ करना चाहता हूं कि दो उसूल किस कायदे से जस्टीफाई किये जाते हैं कि इनकम टैक्स ला के वास्ते तो सारे जाइंट फैमिली को बतौर यूनिट के टैक्स कर दिया जाय और एस्टेट ड्यूटी के वास्ते उस को पारटीशन्ड समझा जाय, उस को नान आफिशियली पारटीशन्ड समझा जाय । जब हम ने जाइंट हिन्दू फैमिली के वास्ते यह तरमीम पेश की कि इनकम टैक्स के लिये हिन्दू खानदान मुशतरका को बटा हुआ समझा जावे तो इस को मंजूर नहीं किया गया ।

Mr. Deputy-Speaker: I am afraid the whole matter has been discussed thoroughly: unfortunately the House has voted against it.

Pandit Thakur Das Bhargava: That is not the point at issue.

Mr. Deputy-Speaker: The point is there is one discrimination between one system and another which is not right according to the hon. member. I allowed ample opportunity for discussion on this matter. This is the main amendment so far as clause 34 is concerned. A number of hon. members who belong to the Dayabhaga system and others also have spoken and the hon. the Finance Minister has agreed to it and the House has accepted it. Now I am afraid it is a forlorn cry.

Pandit Thakur Das Bhargava: I am only opposing the clause.

Shri N. V. Gadgil: The Chair has put all the amendments to vote. The only process that was left to be done was to put the clause as amended to the vote.

Pandit Thakur Das Bhargava: I am opposing the clause: I do not know what stands in the way.

Shri Gadgil: The clause was open to discussion long ago. The amendments were discussed and disposed of.

पंडित ठाकुर दास भार्गव : जनाब वाला, मैं अदब से अर्ज़ करूंगा कि मैं गाडगिल साहब की बहुत इज्जत करता हूं और अगर उन की तरफ से हुज्जत भी आये तो उस की भी

इज्जत करता हूं। लेकिन मैं पूछना चाहता हूं कि जिस कायदे से थर्ड रीडिंग के मौके पर बिल का अपोजीशन किया जा सकता है जब कि दो रीडिंग्स में सब चीजें खत्म हो जाती हैं। इसी तरह से जब क्लाज आता है तो उस को अपोज किया जा सकता है चाहे हाउस का कुछ भी डिसीशन हो, इस से कोई पाबन्द नहीं है। जब क्लाज आता है तो उस को अपोज किया जा सकता है।

Mr. Deputy-Speaker: I find myself in a position of embarrassment. Hon. Member also has been occasionally in the Chair. The practice we followed was to allow all hon. Members who wanted to move amendments to move them and then speak on both the amendments as well as on the clause. It was open to any hon. Member then to oppose an amendment, as also speak on the clause as a whole. The hon. Member perhaps had no opportunity because he was in the Chair—I am partly responsible for it. Since he is practically concluding, I will allow him to finish soon, but will not allow any others to speak.

Shri Bhagwat Jha (Purnia *cum* Santal Parganas): Is the hon. Member not entitled to oppose the clause, as amended?

Mr. Deputy-Speaker: He can raise not one hand, but both his hands. The procedure we were following was to allow discussion on both the amendments as well as on the clause. The hon. Member might have been in a handicap because when he thought of speaking he was in the Chair.

Shri Gadgil: I would refer you, Sir, to rule 260 of the Rules of Procedure and Conduct of Business which says...

Mr. Deputy-Speaker: That does not stand in the way for this reason that it is open to an hon. Member to say that he is speaking on the clause as amended, but inasmuch as I allowed discussion both on the clause and also on the amendments that were moved, it would become a re-opening of the whole matter. So far as the hon. Member who has started his speech is concerned now, I will allow him to proceed and conclude quickly. I would appeal to the other members not to speak on this clause on the ground that it is discrimination to allow only one to speak. Under these circumstances, hon. Members would kindly dispose of the work as quickly as possible.

पंडित ठाकुर दास भार्गव : मैं जनाबवाला का मशकूर हूं......

Shri Raghavachari: I wish to register my emphatic disapproval against the way in which the Select Committee's recommendation of different taxation limits for the two schools has been rejected.

Mr. Deputy-Speaker: I am sorry, but what can be done. The hon. Finance Minister not only in this clause but in clause 34 and even at an earlier stage told this House that after considering the various suggestions, he has made up his mind, and therefore, there is nothing that can be done when the Government is against this particular matter.

Shri Gadgil: Once my hon friend is allowed to speak on this clause, the whole thing will be opened once more for discussion and I am certain that the controversy between the two schools will start again.

Shri Barman: At least one member from this side who holds the opposite view should also be allowed in that case to controvert his arguments, and it should not go unchallenged.

Shri G. P. Sinha (Palamau *cum* Hazaribagh *cum* Ranchi): I wish to point out one thing. Because the hon. Member was in the chair, he did not have a say and so he is now being given a chance to speak on the clause. But I am now asking whether I have a right to oppose it or not.

Mr. Deputy-Speaker: I must have been more strict. I am afraid I can't allow any more discussion on this matter. However, my own personal inclinations are not called for. I have put a seal on my own lips whether voluntarily or involuntarily. It is not

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that I am in agreement with everything that is happening here. I said and I have proceeded on this basis that the discussion both on the original clause and the amendments will go on simultaneously. The other way was to take amendment after amendment, then allow the mover to say what he wants in support of his amendment and then the Government and others who may wish to speak on it. Another way is to have sets of amendments moved together and dispose of them. Lastly, we can have all the amendments and the clause also discussed simultaneously and then one after another or in groups the amendments may be put to vote. We are in the last stage. I have allowed discussion on the clause and the amendments, and now with all respect I am unable to allow Pandit Thakur Das Bhargava to continue his speech. He has lost his right.

Shri N. C. Chatterjee: He has raised the point that it will be an infringement of Article 14.

Mr. Deputy-Speaker: It may be so or it may not be so, but I cannot allow it.

Pandit Thakur Das Bhargava: You know that I sat in the Chair while you were away, but I don't want to take advantage of it. If your ruling is that I shall not be permitted to proceed further, I will sit down. I will, however, submit for four consideration that so far as we have been able to understand, before a clause is put to vote, every person has got a right...

Mr. Deputy-Speaker: If the House wants that the amendments and the clause to be discussed separately, I have no objection, but I have been allowing discussion both on the clause and amendments together.

The question is:

"That clause 34, as amended, stand part of the Bill."

The motion was adopted.

Clause 34, as amended was added to the Bill.

New Clause 37A

Mr. Deputy-Speaker: A point of order was raised in respect of clause 37-A. Objection was taken by Shri Raghavachari to sub-clause (2) of the new clause on the ground that it is inconsistent with the earlier provisions that has been passed and that it is opposed to the objects and scope of the Bill.

Shri S. S. More: It is beyond the scope of the Bill.

Mr. Deputy-Speaker: Objections have been raised against the inclusion of this new clause on the ground, among others, that sub-clauses (2) and (4) relate to joint families, either Mitakshara or Marumakkattayam and that these two sub-clauses are opposed to the very object and scope of the Bill, and again that these two are inconsistent with clauses 5 and 7 as have been already passed. Now, so far as the scope and object of the Bill is concerned, it is to touch the property of a deceased person. This is not a tax. There is income-tax which deals with the imposition of a tax on the income of a person. But this is a duty on the property which passes on the death of a person. These two amendments, according to me, will impose a duty upon the property of a living person. When one man dies, another man's property is sought to be taxed by these amendments. In a joint Hindu family, the father and the sons are equal members of the joint family. It often happens that a camel wants to become an elephant and the elephant is sorry that it is not born a camel, but God has made a camel a camel and an elephant an elephant. The Dayabhaga people try to become Mitakshara people for some purposes and the Mitakshara people try to become Dayabhaga people for some other purposes. The law of the land today is that in a joint Hindu family, each member of the joint Hindu family is entitled to a share in the property. It is not because he was the son of his father. Independently of his father, though he owes his origin to his father, by right of birth, he is entitled to a share. After the father dies, it is his share alone that passes to the rest. The other members are equally entitled to a share, particularly in the case of minors. Whether a minor or a major, as a son he is entitled to a share, as soon as he is born.

Shri S. V. Ramaswamy: As soon as he is conceived.

Mr. Deputy-Speaker: Even when he is *en ventre de sa mere*, he is entitled. The property that passes on the death of the father is his share. Strictly under the Hindu law, that property is not liable for the personal obligations of the father on his death on account of pious obligation. In the case of any other member of a joint Hindu family, the personal debts of the father have no charge upon the property. The persons that have lent will go without any remedy. For the purposes of this Act, the share of the deceased person in a joint Hindu family is deemed to have been his separate share as if he had separated at the time of his death. What is sought to be taxed under sub-clause (4) when the father dies is the son who has an independent share in the property by his birth. When X dies, Y is taxed. This is absolutely beyond the scope of this Bill. The share of the four sons who are alive are taxed. Is it an estate duty or duty on capitation?

Shri S. S. More: Duty on property.

Mr. Deputy-Speaker: Or a duty on property? This was never contemplated in the original Bill, nor at the stage when it was referred to the Select Committee, nor when it was accepted by the House at the consideration stage. Now in the clause by clause stage, to say that we are entitled to modify it is impossible and I will not allow it. It is beyond the scope of the Bill.

Further it is also inconsistent with what we have already passed under clause 5. An argument is advanced that what is deemed to pass is on the analogy of what is deemed to pass when a man parts with property within two years before his death. Notwithstanding the ordinary law, that is the Transfer of Property Act, where the person has disposed of the property, for the purposes of this Act, it is deemed not to have passed if it is within two years of his death. That stands on a different footing. The analogy does not apply. If the deceased had parted with property which at one time belonged to him, under coercion or undue influence or if he had put it in the name of some other person, it is a question of construction whether it continued to be the property of the deceased even from the outset. If the amendments are accepted, it will mean that property which never belonged to the deceased at any time but belonged only to the sons will be taxed. The moment a son is born, he is entitled to a share: not by virtue of any gift, but by virtue of some ancient law, under the system of Hindu law. That analogy does not hold good.

With regard to the other analogy that the property is placed in the joint names of husband and wife, the survivor and so on, one man starts with it and it is a question of interpretation whether the property belongs to the deceased. At what time? May be, for the purpose of avoiding estate duty, it may be kept in that form. But, even that does not relate to the case of a person who is living whose property is sought to be taxed. These analogies absolutely do not throw any light and have no application so far as this matter is concerned.

It was said by hon. Finance Minister,—I find from the records—that it would be all right if the word 'notwithstanding' were introduced. I will say notwithstanding 'notwithstanding' it is not possible because it is essentially opposed to the scope of the Bill and is inconsistent with what we have passed. On the above

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grounds, even 'notwithstanding' will not cure. Under these circumstances, I am exceedingly sorry that I have to hold that both sub-clauses (2) and (4) are beyond the scope of the Bill and no amount of arguments will set it right.

Pandit Thakur Das Bhargava: What about sub-clause (5) of clause 37A? That is also opposed. The question will be one of principle.

Shri Raghavachari: Now that you have given your ruling, I wish to add one more objection. In the light of the ruling that you just now gave before these clauses were considered, by this process, under sub-clauses (2) and (5) the tax is enhanced; it will have the effect of enhancing the tax. Without the special permission of the President, it is barred.

Mr. Deputy-Speaker: So far as that matter is concerned, I have considered it in referring to the amendments to clause 34, which, in practice have the effect of enhancing or decreasing the tax. I do not feel that this comes directly to a question of imposing or varying a tax. It may have incidentally the effect of increasing the incidence of the tax, not the particular tax. Under these circumstances, with respect to sub-clause (5),....

Shri Raghavachari: With respect to sub-clauses (2) and (4) only this is an additional argument.

Mr. Deputy-Speaker: It is not necessary for me to address myself to this argument.

Pandit Thakur Das Bhargava: I was referring to sub-clause (5) of clause 37A.

Mr. Deputy-Speaker: Regarding the other objection that it indirectly increases the tax and so on, it is not necessary to give an opinion on that.

Pandit Thakur Das Bhargava: In article 110, the word incidental is used. Even if it is incidental then also, it will be objectionable. It says: "any matter incidental to any of the matters specified in sub-clauses (a) to (f)."

Mr. Deputy-Speaker: It is a question of Money Bill or not.

Pandit Thakur Das Bhargava: The question is whether it is a Money Bill: If it is a Money Bill, it comes within article 117. It is opposed to article 117 as it enhances the duty though incidentally.

Mr. Deputy-Speaker: These are all arguments for the same purpose..

Shri C. D. Deshmukh: The President has recommended.

Mr. Deputy-Speaker: It knocks the bottom out of this objection. The President has recommended. Under these circumstances, it is not necessary for me to decide the other point. The President cannot cure the other objection. So far as sub-clauses (2) and (4) are concerned, they must be deemed not to be a part of the amendment. They cannot be moved.

Now, what is the objection to sub-clause (5) ? There cannot be any objection to sub-clause (3). Sub-Clause (5) says:

> "(5) For the purpose of estimating the principal value of the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law in order to arrive at the share which would have been allotted to the deceased had a partition taken place immediately before his death, the provisions of this Act, so far as may be, shall apply as they would have applied if the whole of the joint family property had belonged to the deceased."

Shri A. M. Thomas: Sub-clause (5) is objectionable?

Mr. Deputy-Speaker: What is the meaning of this? Let me ask the hon. Finance Minister as to what this is intended to cover.

Shri C. D. Deshmukh: I have explained in the observations that I have made that the whole of this will be regarded for the purpose of constructive partition.

Mr. Deputy-Speaker: Would it enhance the duty? Would what I have disallowed under sub-clauses (2) and (4) be brought indirectly under sub-clause (5)?

Shri C. D. Deshmukh: No.

Mr. Deputy-Speaker: It is only for the purpose of valuing the share that the entire property will be valued and a one-fifth share cut off: is that the intention?

Shri C. D. Deshmukh: Yes.

Mr. Deputy-Speaker: It says: "as they would have applied if the whole of the joint family property had belonged to the deceased."

Shri C. D. Deshmukh: This is what I said: Sub-clause (5) of the amendment has been proposed because, in order to arrive at the share which is allottable to the deceased member, it is essential that the value of the total coparcenary property should be ascertained. There is no question of any reduction or addition.

Mr. Deputy-Speaker: It is more a valuation.

Shri Raghuramaiah: I want to know the necessity for sub-clause (5) at all because sub-clause (1) of Clause 37A defines the benefit accruing from the death of the deceased, and then sub-clause (2) says:

> "In determining under sub-section (1) the share which would have been allotted to the deceased, a member of a coparcenary..."

I am sorry. Sub-clause (3) says:

> "The value of the benefit accruing..."

No, it is sub-clause (4).

Mr. Deputy-Speaker: Sub-clause (4) is ruled out.

Shri Raghuramaiah: In that case, the question is you must have a provision only to determine the value of the share of the deceased. How does the value of the entire joint family property come into it? Really it is impossible to say. We have got a provision which says that the share will be determined as if there had been a partition, and the value of the share will have to be reckoned with reference only to that share.

Mr. Deputy-Speaker: I have heard the hon. Member. As I understand, there is no question so far as sub-clause (1), (3) and (5) are concerned. Sub-clause (1) is the charging clause. In a joint Hindu family there is no partition. What then is the share for sub-clause (1)? Assume there is a partition on the date of his death, then the share will be earmarked. Now, it might be said that if there is a plot of land, two acres, and the share of the deceased person is only one-fifth, don't separate the two-fifth and then try to value it as two-fifth, but value the entire two acres, and give him the one-fifth share. That is, the manner in which it has to work: whether first of all it should be separated and the separated portions, each one, valued, or *vice versa*. Suppose there is a silver vessel. Cut it into five pieces and value each piece separately, or value the entire vessel as a whole, and then take into consideration one-fifth of the value. If there is a small house, then one-fifth of it cannot be cut off and that portion alone valued. Even under the Partition Act, wherever the property cannot be divided easily and convenient enjoyment cannot be had, the whole property is taken and is allotted to one brother or the other. Sub-clause (3) relates to Marumakkattayam. Sub-clause (5) relates to joint Hindu family. Therefore, this is only one of the ways in which the value can be ascertained. Ascertain the value of the entire property and then divide it for the value of the share of the member, instead of first of all dividing and then trying to value separately. I do not think this requires any sanction.

Shri Raghavachari and **Shri Raghuramaiah** *rose*—

Pandit Thakur Das Bhargava: On this analysis...

Mr. Deputy-Speaker: One at a time. Let me hear Mr. Raghavachari.

Shri Raghavachari: Yesterday I also raised an objection to sub-clause (5) of Clause 37A and pointed out that it is inconsistent with some principles which we have already decided, and I referred in this connection to Clause 35 which you will kindly see. Clause 35(1) reads:

> "The principal value of any property shall be estimated to be the price which, in the opinion the Controller, it would fetch if sold in the open market at the time of the deceased's death."

That is not sufficient. Then:

> "(2) In estimating the principal value under this section the Controller shall fix the price of the property according to the market price at the time of the deceased's death and shall not make any reduction..."

No doubt, it goes to the question of reduction because the entire property is to be offered for sale. Now, the earlier portion of it simply says:

> "The principal value of any property shall be estimated to be the price which."

You know, Sir, when the whole property is offered it may not always be the case that the price will appreciate, it may also go down, for it is difficult to find a purchaser for the entire property. We have to fix the market value. It is not some notional value which we are going to fix. There must be a bidder, a purchaser. Therefore, this simply introduces into the arena of fixing valuation very many notional and fictitious ideas, and the principle we have already decided in Clause 35 is that the property is the thing which must be offered for sale, and no reduction ca be given because the entire propert is to be offered for sale. Now, you determine, or rather, you fix that i must be the entire property that i offered for sale as the property an then take a fraction of that value a the value of the property that is t be sold. Therefore, there is some inconsistency between the principle involved in Clause 35 which we hav already passed, and the principl which is involved in Clause 37A(5)

Shri C. D. Deshmukh: Althoug the words "value of the property" have been mentioned, this is not th mode of valuation. It is a mode o determining the share, and I do no know whether hon. Members hav read the record of what I said whe I proposed the amendment, becaus no mention has been made of th arguments used. What I said was:

> "Sub-clause (5) of the amendment has been proposed because, in order to arrive at the share which is allottable to a deceased member, it is essential that the value of the total coparcenary property should be ascertained. Otherwise, it would be impossible to ascertain the share of the deceased".

Now, to that no hon. Member ca take execption. Then I said:

> "Here again, in determining the total value of the entire property, the provisions in Part II relating to gifts, settlements, declarations of trusts etc., should apply, so that any transfers made, say, by the manager or by other persons on behalf of the Hindu coparcenary within the statutory period may be brought back into the jont family property, not for the purpose of upsetting any of those transactions, but merely for the purpose of enabling the revenue authorities to determine the total value of the property."

Therefre, it is not a question o valuation, and there is no inconsistency with Clause 35(1). After on determines the totality of the pro perty and the share of the deceased, then we shall take up the question of determining the value and that is when Clause 35 will come into operation.

Pandit Thakur Das Bhargava: May I submit a word in regard to Clause 37A. The words are:

> "For the purpose of estimating the principal value of the Joint family property..."

This Clause 37A appears under the heading "value chargeable", so that to arrive at a valuation this amendment is sought to be made, which means that, as the hon. Deputy-Speaker has himself explained, if there is a vessel, the vessel may be worth Rs. 1 lakh, if you divide it into five, each one may or may not fetch Rs. 20,000. So, for the purpose of valuation, the entire property is sought to be treated as one and whole, and thereafter the division is sought to be made. This means that in a number of cases the value of the property will be fictitiously much more than what it would be if it were divided into pieces and then brought to auction. According to the principle that we have already accepted, property which passes on death is a specific share in the property. How can we subsequently, after assigning the share, after accepting the principle that it will be treated as partitioned property at the time of death or immediately after it, again bring in another principle, a notional, fictitious principle, that it shall be treated for the purpose of valuation as the whole property. Because, otherwise the value will be much more, and I must submit that in the light of the ruling that the Chair has so kindly given just now, it appears that this is tantamount to enhancing the value of the property, and therefore more tax will be charged, so that, so far as the principle is concerned, it is bad. We have already accepted the principle in Clauses 5 and 7 that the property shall pass in such share, and according to Clause 37A also the deceased will be entitled to his share and to him such share will be allotted. So far as the question of allotment is concerned, there is no dispute. The question is about the valuation. My humble submission is that one-fifth share is not the same thing as valuing the whole and putting it to auction and then dividing it into five. There is a great difference between the two. On the very basis on which you have been pleased to give your ruling, this sub-clause (5) of Clause 37A is obnoxious to both these principles.

Pandit K. C. Sharma: Sub-clause (5) of Clause 37A is useless, for what the hon. Finance Minister wants is the share of the deceased. "A", "B", "C" and "D" & "E" have Rs. 4,000 each as his share. Now, what the Finance Minister wants is that this Rs. 4,000 should be multiplied by five, and the whole sum should be tantamount to something like Rs. 20,000. Now, divide Rs. 20,000 again by five and say "The share of A for purposes of estimating the estate duty comes to Rs. 4,000." Where is the logic in it? Supposing the share of every member of the joint Hindu family is ascertained once, now he wants to say that the whole corpus of the deceased should be put together, and again a division should take place. What is the logic in it? It is bad logic, and a bad way of estimating things.

5 P.M.

Shri Raghuramaiah *rose*—

Mr. Deputy-Speaker: Is it necessary to hear again the hon. Member?

Shri Raghuramaiah: Yes. It is a very important matter. The hon. Finance Minister assumes that on a division of a coparcenary, the shares of the members of the coparcenary will be equal. It will not be so. Suppose a certain member of the coparcenary is indebted to the family, and that man dies, naturally his share will be less, deducted by the amount he owed to the family. There may be a hundred other cases, where his share may not be identical to what it would be if there had

[Shri Raghuramaiah]

been no borrowings or other obligations by him. Once that equality goes, we have to see what is the actual share that will fall to his share.

The other point is that this sub-clause 5 of the new clause 37-A is the most confusing clause I have seen in the whole of this Bill. I am sorry to say that. The wording is so contradictory, that it takes half an hour to read through, and another half an hour to fail to understand it. Sub-clause (5) reads:

> "....in order to arrive at the share which would have been allotted to the deceased had a partition taken place immediately before his death, the provisions of this Act, so far as may be, shall apply as they would have applied if the whole of the joint family property had belonged to the deceased."

If the entire property had belonged to the deceased, and we have to proceed on that assumption, where is the need to arrive at the share? Where is the question of any share? The whole thing is a jumble of words. I think in any case it would require redrafting to bring out the exact intention of the Government, and my main objection is that it is wholly unnecessary, because the relevant provision is already there in sub-clause (1) which says:

> "..On the death of a member thereof shall be the principal value of the share in the joint family which would have been allotted to the deceased, had there been a partition immediately before his death."

That is completely comprehensive and quite sufficient. I would request the hon. Finance Minister either to improve the language of sub-clause (5) and bring out the meaning, or to omit it altogether, it being unnecessary and quite contradictory to sub-clause (1).

Pandit Thakur Das Bhargava: No harm, if it is omitted.

Shri S. S. More: I share the view of the hon. Finance Minister that this particular sub-clause is absolutely necessary. Without that sub-clause, it will be very difficult to make any assessment on the undefined share of a deceased brother or deceased member of the coparcenary.

May I refer to sub-clause (1) of the new clause 37-A? It speaks of a sort of notional partition. In a joint family, it is quite evident to all of us that the share of one of the members of the coparcenary is undefined and is fluctuating. So at the time of the death, it shall be notionally supposed that a partition had taken place, but actually there is no partition by mete.wands. I will just take an illustration. Suppose there are five brothers, and they have got five houses, each one of these five brothers has an undefined one-fifth share in all these five houses. If one of these five brothers dies, and the principal value of the share of the deceased member of the coparcenary is to be ascertained, how can his undefined fifth share be ascertained, unless all the five houses are taken together for the purpose of computation and the principal value thereof is assessed by whatever procedure is prescribed. It may give hardship to the joint family members. But I believe that under clause 51, the remaining members of the coparcenary shall be accountable, for they shall be the persons who shall be having a share of the deceased in their possession by way of survivorship.

Shri N. C. Chatterjee: And their legal representatives also are accountable.

Shri S. S. More: As I have stated, if there are five houses, and the undefined one-fifth share in all the five houses, belonging to the deceased is to be determined, how can the principal value of that share be determined, unless the principal value of all the five houses is computed or assessed, by whatever procedure has been laid down. If this sub-clause (5) is deleted, it will be impossible to find that out. Therefore it is not illegal. It is not *ultra vires.* It does not offend any principle either of procedure or of the Constitution. On the contrary, it is absolutely essential for giving effect to the assessment of the undefined share of a deceased joint family member. Without this: it will be impossible for Government to arrive at the principal value. I therefore submit that it is absolutely necessary, it is perfectly valid and quite egal. It may cause hardship to the members of the joint family. But that hardship is unavoidable. If all their property shall be placed in the open market for the purpose of finding out the undefined one-fifth share of the deceased, it may no doubt be inconvenient to the joint family members, for they will have to submit a list of all the movables in their house, in order that the undefined share of the deceased can be found out.

Pandit Thakur Das Bhargava: It will enhance the value.

Shri S. S. More: It may not enhance, but depress also. Supposing there is a large extent of land or there is a large number of houses which are immediately brought to the market at one and same time, the market may be glutted, and there may be a depression of the value. That will all depend upon the nature of the property, and the quantum that may be brought into the market. So nobody can dogmatically say that it will enhance the value. It may equally depress the value as well

Pandit Thakur Das Bhargava: Are we discussing the point of order or going into the merits of the caluse? We have not spoken on the merits of this amendment. We spoke only on the point of order.

Mr. Deputy-Speaker: I have been unable to keep up to the margin. This point of order was raised here yesterday, and I was not present then.

Shri C. D. Deshmukh: The point of order that it was inconsistent with something, we have already passed.

Mr. Deputy-Speaker: Shri Raghavachari says that he raised a point of order yesterday to the effect that sub-clause (5) of the new clause 37-A was inconsistent with clause 35 which we have already passed.

Shri C. D. Deshmukh: That is right. I know his point. But in order to know whether a something is inconsistent with something else, one ought to understand its meaning. Therefore it is no use saying that we are going into the merits of the matter. I am trying to explain why the clause is here. I had tried to explain once, and as I said, I am not concerned with the valuation of the property as such. We have to assume a constructive partition. That is what we say. Now partition of what? Partition of a certain property. In a joint family, there may be trusts, settlements, gifts and so on. How shall we deal with them? All that we say is that we deal with them as if the whole of it had belonged to the deceased......

Pandit K. C. Sharma: Let the whole belong to the whole family.

Shri C. D. Deshmukh: ...for the purpose of bringing back, so to say, into the corpus, things which would be included in the property in the case of other people belonging to *dayabhaga* and so on. Therefore what we try to do is to restore first to the property what should have belonged to the property. That is all. That is not a question again of valuation. It may be a gift, a settlement, a something or the other. That forms the principal value of the property. Then you have this constructive partition. Then you determine the share. Therefore there is nothing inconsistent with the mode of valuation which is laid down in clause 35.

Pandit Thakur Das Bhargava: All that can be said is that whatever the hon. Finance Minister has in mind is not clearly expressed here.

Shri C. D. Deshmukh: That is another matter. We shall try and improve it. Everybody's criticism, so far, has been destructive. Nobody

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has suggested an amendment. If some one comes along after having understood this, and says, in that case put it this way, I am prepared to consider it.

Pandit S. C. Mishra (Monghyr North-East): It is worth scrapping.

Shri C. D Deshmukh: Here is an illustration. A, a member of a Hindu undivided family dies, alas, on 1st January 1954, and there are four coparceners. The total of the property on 1st January, 1954 is Rs. 5 lakhs. Gifts made by the family, as represented by the manager on 1st January 1953 were Rs. 1 lakh. Public charitable trusts made on 12th September, 1953 are Rs. 50,000. Without sub-clause (5) the question will be what is the principal value of the property which you are going to partition? According to us the total will be Rs. 650,000—they are all within one year—and the total is Rs. 5 lakhs *plus* Rs. 1 lakh *plus* Rs. 50,000—that will be divided by four, and the share of one of the members of the coparcenary will be Rs. 125.000. That is all that this sub-clause says.

Pandit Thakur Das Bhargava: Without this clause also this could be done.

Shri Tek Chand: May I make a submission, Sir?

Mr. Deputy-Speaker: I am sorry. I have no objection to hear every hon. member. But hon. members ought not to forget that this matter was raised on the one side and answered on the other. I have got a copy of the speech of the hon. the Finance Minister both at the time of introduction and also when this point was raised, and this was answered in detail. This is all here with me in cold print. Because I was not present here, I only wanted to know some of the points that had been raised. I overlook the other point that was raised by Mr. Raghavachari. Therefore, he brought it to my notice. I also heard the Finance Minister.

So far as this objection—*viz.* on the ground that it is covered by clause 35—is concerned, I am not prepared to agree that 35 is inconsistent with the new sub-clause (5). A later clause cannot be barred unless there is a clear decision against it in the earlier portion. Clause 35 deals with valuation and says:......"and shall not make any reduction in estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time". It is never intended under sub-clause (5) of 37A that the whole thing ought to be placed in the market at all. There is no question of it being in the market. Therefore, the one thing is different from the other. This is only a notional partition. Is it intended that the Government should effect a partition and then separately ask for the share—1/5th, 1/4th etc? Therefore, it must take for the purpose of collecting estate duty this course. This provision is here on the basis that the whole property is treated as having belonged to the deceased and then taking the value as a whole and then assessing 1/5th or 1/4th share and so on. That is the only way that is possible, unless Government steps into the shoes of the deceased and effects a partition and gets into 1/5th, 1/4th and so on. We are not having an actual partition. Unless it is deemed to have separated. It won't come under the general law; the Mitakshara law may apply. I do not know whether the crown duties will be avoided. To avoid all that there is a specific provision.

Shri M. C. Shah: The duties will have to be deducted.

Mr. Deputy-Speaker: So far as this is concerned. on the basis that it is one and indivisible the property will be assessed and then 1/5th share or whatever it is will be taken. Pandit Thakur Das Bhargava raised a point that if instead of selling it by parts it is sold as a whole it may fetch a higher price. But the other argument is that it may be a huge palace and there may be no purchaser. Therefore, there are advantages and disadvantages in the whole. Therefore, this is only working out on the earlier portion. Lastly, it must be remembered that the provisions of this portion are also included there—how this assessment is to be done. They apply to the rest. Under those circumstances, I do not think that it is opposed to clause 35. It is only a notional partition that is meant. This is only working out the provisions of this Act for the purpose of valuation and then allotting 1/5th, 1/4th etc. There is no objection to this. That is all.

Shri Tek Chand: There are two sets of circumstances......

Mr. Deputy-Speaker: No, no. It is all *post mortem*. I have finished.

Pandit Thakur Das Bhargava: Do I understand, Sir, that the ruling is that for the purposes of finding out the share, the whole shall be treated as having belonged to the deceased, but for other purposes, for the purpose of valuing the share, it will not be taken into consideration? If that is the ruling, that is all right.

Mr. Deputy-Speaker: It is only for the purpose of valuation.

Shri C. D. Deshmukh: It says—in order to arrive at the share.

Mr. Deputy-Speaker: It is practically impossible. There is no actual partition. The deceased did not die in view of this estate duty. Nor can the Finance Minister step into his shoes and divide it block by block and house by house. It is only a notional value.

Pandit Thakur Das Bhargava: It should be put properly.

Mr. Deputy-Speaker: This provision is not opposed to that. On the other hand, every effort must be made to see that every other provision relevant to the imposition of the duty is made easy and not made in an indirect manner absolutely futile.

Shri Raghavachari: I oppose the amendment.

Shri Tek Chand: I shall do the same.

Mr. Deputy-Speaker: Shall I get along with 37 before we go to the others? I do not know at what stage there was a discussion on this clause.

Shri Raghavachari: Yes, a point of order was raised......

Mr. Deputy-Speaker: The hon. the Finance Minister made his speech regarding this new clause and then a point of order was raised. Now, I will take up the amendments. Whatever amendments are to be moved, hon. members may clearly bear in mind that I allow a discussion on both the clause and the amendments together. Then I will put the amendments one after the other and the clause as amended or as not amended. There won't be a separate discussion on the clause. Every hon. member must take advantage of it now. If he is not speaking on the amendments, let him speak on the clause.

Shri C. D. Deshmukh: There is only one amendment.

Mr. Deputy-Speaker: Yes. It is proposed that sub-clauses (1), (3) and (5) be renumbered (1), (2) and (3). Now, hon. Members may discuss.

Shri Raghavachari: Sir, I oppose this amendment. I am aware, Sir......

Mr. Deputy-Speaker: Hon. members will not refer once again to the same points.

Shri Raghavachari: No. I will be perfectly relevant. I do not wish to go into any matter that has already been discussed.

Mr. Deputy-Speaker: Relevancy is one thing; repetition is another.

Shri Raghavachari: My point is, Sir, that it is certainly essential to have some rule to determine the principal value of the share of the deceased in a joint family property. Therefore, some provision is essential to determine the way in which that value can be

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fixed. But if you examine the language of this sub-section, Sir, you will find that it is not very happily worded at all. The Finance Minister was complaining that we are more destructive rather than constructive. Well, Sir, we will only state that the thing is so drafted that the idea of the draftsman appears to be that the entire family property which you want to net - in must come in. It is drafted more with that idea.

Now, you will see, Sir, that the language is inconsistent with the purpose for which you intend it to be there. Take, for instance, "For the purpose of estimating the principal value of the joint family property..." You are concerned with estimating the principal value of the share of the deceased in the joint family. For that purpose, you consider as if you are offering the entire family property and fixing its market value and then taking that fraction of the value belonging to the deceased. You have started by saying,

> "For the purpose of estimating the principal value of the joint family property of a Hindu family governed by the Mitakshara, Marumakkattayam or Aliyasantana law in order to arrive at the share which would have been allotted to the deceased had a partition......"

It is not again to arrive at a share, it must also be 'the value of the share'.

> " .....which would have been allotted to the deceased had a partition taken place immediately before his death, the provision of this Act, so far as may be, shall apply........"

The provisions of the whole Act will always apply to everything; why should it be specified here that the provisions of this Act will apply here. It must be more about the sub-clause. That also is unnecessary here "...... so far as may be, shall apply as they would have applied if the whole of the joint family property had belonged to the deceased"—even that is unnecessary. It is a fraction that belongs to the deceased and you must in determining the principal value of that share fix the value of the entire property of the joint family and take the fraction of that man's share. This certainly is confusing. I wanted to omit a few words in order to make it as meaningful as possible, but I am finding it difficult. I have made an attempt. "For the purposes of estimating the principal value of the share in the joint family property of the deceased Hindu governed by the Mitakshara, Marumakkattayam or the Aliyasantana law..." ..."in order to arrive......" all that is unnecessary.

Mr Deputy-Speaker: It is only procedural. I believe hon. Members must be able to follow the line of argument.

Shri Raghavachari: My argument is this. The sub-clause provides for need to fix the value of the share of the deceased. For that purpose you must determine the entire value of the property.

Mr. Deputy-Speaker: Probably it is a juxtaposition. You may well say, 'in order to arrive at the value of the share of the deceased person in joint family property, the whole of the property be treated as having belonged to him at the time of his death'.

Shri Raghavachari: "As if the whole of the property had belonged to the deceased at the time of death" is absolutely unnecessary. All that is necessary is, 'in order to determine the value of the share of the deceased in the property......'.

Mr. Deputy-Speaker: The hon. Minister has already said that. That is to say with respect to the property with respect to which there has been no disposition earlier. He referred to cases where there have been gifts or other dispositions which will not be taken into account under clause 9 and so on. There is a gift made within 2 years before the death of the individual. It is the Manager that makes the gifts and that property has also to be brought into account. It is only by virtue of this law that the gift would not be taken into account, which otherwise would be made under the ordinary law, the Transfer of Property Act.

Shri Raghavachari: You will see that when a man makes a gift—whether it is valid or invalid—it is the share of the man who has made the gift that goes.

Mr. Deputy-Speaker: The share of the deceased person also ought not to go.

Shri Raghavachari: You can certainly say the other provisions of the Act should apply.

Shri C. D. Deshmukh: The point is that the deceased may not be a person legally capable of making the gift and it is a peculiar position of the joint Hindu family, but it may be made on behalf of the family but not by the deceased.

Shri N. C. Chatterjee: The gift is made by the *karta*.

Shri Raghavachari: There may be some difficulty in applying section 9 (?) and this is what we want to make clear.

Shri C. D. Deshmukh: If I may intervene, the hon. Member is worried by the use of the words, 'the principal value......' in line 1; we may say 'in order to arrive at the principal value of the share that would have been allotted.........'

Mr. Deputy-Speaker: That line may be put first.

Shri C. D. Deshmukh: Clause (1) requires the determination of the principal value of the share of the deceased as if the partition has taken place. In order to determine the share, it is necessary to have the principal value of the estate as a whole. Therefore, we say, 'for the purpose of estimating the principal value of the share in order to arrive at the principal value of the share which would have been allotted to the deceased'.

Mr. Deputy-Speaker: The third line may be put first and the other lines put back.

Shri Tek Chand: Sir, now there are...

Mr. Deputy-Speaker: The hon. Member was in the Select Committee. Therefore he will try to be as brief as possible.

Pandit Thakur Das Bhargava: All the members were on the Select Committee and they never suggested the new clause 37-A. Mr. More was there and now he says it is almost indispensable.

Shri Tek Chand: Now, there are two circumstances which I pray the hon. Finance Minister may be pleased to bear in mind. I would have been in entire agreement with him had it been a case of a simple family as described in the illustration given by him in his address a short while ago. But, there are two complicated cases which I would like him to closely examine.

Please remember that a joint Hindu family does not necessarily consist of people in existence but a child *en ventre sa mere* the child yet unborn, is also a member. If on the first of a particular month, one of the brothers dies, it may be so far as his mother is concerned there may be somebody *en ventre sa mere*. Therefore, this clause stating, 'a partition has taken place immediately before his death', cannot do because his share has to be determined when the child in the womb takes birth. It may be that the child is still-born in which case the number remains the same; it may be that the child is born alive, in which case the quantum of the share is reduced *pro-rata*.

Take a slightly more complicated case. There is a father. He happens to have two wives and two sons. Let us assume on the death of one of the sons, both the wives are *en ceintes* they are pregnant. That is, when the son dies, both his mother and stepmother are pregnant. In the case of one she gives birth to a child who is alive and the other does not give birth to a child that is alive or she dies. One does not know at the time of the death of the son. That being so, if the son

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dies and immediately before you were to partition the property, you would be taking out of calculation the cases that you do not yet know because you do not yet realise whether the ladies are going to give birth to still-born babies or to live babies. Therefore for the purposes of partition immediately before death there may be this difficulty. In this case, if there is a live child born or there are twins—nobody knows—there will be *pro rata* reduction

Shri C. D Deshmukh: Twins is more common

Shri Tek Chand: I did not say quints. I said twins.

Shri C. D. Deshmukh: Quintuplets will be a very difficult case.

Shri Tek Chand: Therefore take into consideration a case where the man has two wives......

Mr. Deputy-Speaker: If there is a child in the womb it will also get a share provided it is born a male.

Shri Tek Chand: My submission is that that child would be entitled to a share but if the partition were to take place "immediately before his death," that is the death of one of the sons, you do not know at the time of the partition, the share would be more or less. Sir, I may illustrate the point further.

Mr. Deputy-Speaker: I am not able to follow the language or the substance of what he says. After the death, assume that it really takes 6 or 8 months for the proceedings to start. Time will lapse before the proceedings have started. By that time the child in the womb cannot continue to remain there: it cannot remain there eternally. I am not able to follow the hon. Member's difficulty.

Shri Tek Chand: It is not that you have not been able to follow. Probably I may have failed to make myself intelligible. My submission is this, Take into consideration a father and two wives and two sons. It is a family of five. One of the sons dies on the 1st of January. On the 1st January his two mothers, the real mother and the stepmother were, *en ceintes*—in the family way. According to Clause 37A (5) partition takes place immediately before his death. Therefore on the 1st of January there were in existence, alive, and breathing, only five members of the family *viz.* father, two ladies and the two sons. It may be if you are going to start taking account as it happened at that moment, (it does not matter whether you take that account six months hence or two years hence) the date happens to be the 1st of January, five members are known. Heaven alone knows there may be seven members entitled on that date. If the ladies give birth to twins instead of five there may be nine.

Shri K. K. Basu: Why not quadruplets?

Shri Tek Chand: Then how are you going to apply that formula which you are giving in sub-clause 5.

A second illustration that I would like to give is this. Let us assume a simple thing.

Mr. Deputy-Speaker: Would not the ordinary law apply? In the ordinary law if even a partition should have taken place then are the other children not entitled to re-open the partition?

Shri Tek Chand: It is this that I am submitting. The children born six months hence will be entitled to reopen the partition. Therefore, the share at the actual time of the partition is to be reversed. But if you read sub-clause (5) as it is, it does not permit that elasticity which Hindu law, as it stands, permits.

Mr. Deputy-Speaker: What other incidence of Hindu law will he follow? From the language I am not competent to interpret. From the language what I feel is that sub-clause (1) is the partition clause. Mitakshara ceases on the death of a member of the joint

Hindu family. Hon. Member feels that he indirectly negatives the re-opening of the partition on the happening of some other event.

Shri Tek Chand: That is so. Then the second instance that I want to give is that of an ordinary family of people, all born; nobody on the way, when a particular member dies. Supposing a man who died were a debtor, or a fine had been imposed upon him for some criminal offence committed by that particular individual, or he might have taken a loan from the joint family coffer to be readjusted later. How can you conceive, when you are going to make calculation, as if the whole of the joint family property had belonged to the deceased? What happens is that when partition takes place such debts (when the individual dies) are taken as a fine imposed upon the joint family property. You can take that even if he has no ready cash out of his share. Therefore, you say that you are going to exclude that and to treat the entire family property as if it were his own exclusive property. There you will be creating confusion. Therefore, it is not as simple a case as it looks. I submit that you would pay homage to logic if you were to exclude sub-clause (5).

Pandit Thakur Das Bhargava: So far as this clause is concerned subsection (1) is very objectionable. So far as the reference to this Mitakshara family and Dayabhaga families goes it stinks into my nostrils. I do not understand why in the secular state a reference to this family or that family comes at all. This is the first objection that I want to make. This takes me to the speech that I was making at the time when I wanted to say something about section 34. (*Mr. Deputy-Speaker moves in the Chair*). I know your ruling, Sir.

Mr. Deputy-Speaker: When I am shaking this side or that side hon. Members need not feel that I am not allowing them to speak. I am prepared to sit here quite comfortably. Owing to that I have to shake within this chair.

Pandit Thakur Das Bhargava: So my humble submission is that it stinks into my nostrils that this refers to the *Mitakshara* or *non-Mitakshara* family.

Shri C. D. Deshmukh: On a point of order. If something has been passed by the House which makes a reference to *Mitakshara* or *non-Mitakshara* is it open to any hon. Member to say that it stinks his nostrils?

Pandit Thakur Das Bhargava: My nostrils and not the nostrils of the House. So far as the question of constitution goes, my submission is that any reference to any Mitakshara family or Dayabhaga family is *ultra vires*.

Shri Barman: The Hon'ble member was a member of the Select Committee. How did he distinguish between *Mitakshara* and *Dayabhaga* in clause 7 of the Bill?

Pandit Thakur Das Bhargava: The complaint of my friend and the aspersion that he wants to cast upon me is ill-founded. I was never a Member of the Select Committee. The Select Committee for the first time placed the limits fifty thousand and seventy-five thousand. These limits were not in the original Bill. Anyhow, the Select Committee sat for a number of days and it debated and concluded about the advantages and disadvantages of this or that system and referred it in the proportion of fifty to seventy-five thousand. After a few speeches of my friend, Shri N. C. Chatterjee whose influence was so great that the Select Committee verdict was given a go by and the difference has been increased from 1½ times to double. This is to say the least highly objectionable.

Mr. Deputy-Speaker: I am afraid *Mitakshara* family members have not been equally alert!

Pandit Thakur Das Bhargava: Unfortunately I am not in the postion of that person. I have got no personal axe to grind. I will not be governed by this joint family system if I die. This is beside the point.

So far as the *Mitakshara* and the *Dayabhaga* are concerned they are different systems of law. I am sub-

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mitting all this with a view to just reinforce my argument about other aspects of the case. I submit, Sir, that this was a great mistake to regard the unit of taxation as a family and not as an individual. If an individual has got certain property that property at the time of his death could be taken into account without any reference to any *Mitakshara* or *Dayabhaga* family. If the Finance Minister maintains......

Mr. Deputy-Speaker: It is not a difficulty, it is to be only operative. Nobody can visualise what exactly it is?

Pandit Thakur Das Bhargava: One of the two things should have happened. Either the Finance Minister should have waited until the Taxation Enquiry Committee gave its findings and stated that all the families are to be treated equally as they existed under their personal laws. That was one solution. But after taking things as they are, even if we accept the principle then many difficulties are bound to arise. My friend Mr. Tek Chand just referred to one difficulty. With the permission of the House I beg to refer to another.

Mr. Deputy-Speaker: As the hon. the Finance Minister has said when once it is admitted that the undivided share of deceased member of the joint Hindu family should be taxed then how it is to be worked out is the procedural portion here. If you get rid of sub-clauses (2) and (4) then some constructive suggestion should be made as to how it is to be improved.

Pandit Thakur Das Bhargava: I am coming to this question. The House has accepted so far that the deceased had no partition effected at the moment he is dying and on his death property passes as if partition had then taken place. What happens in the case of partition in a *Mitakshara* family? It is not only the coparceners who have got a share in the property but there are other equities to be settled at the time of the partition. If you accept the principle, I beg to submit, for the consideration of the House, that it is not only the coparcener who are benefited at the time of the partition, the widows who are not coparceners are also given certain share so far as residence and maintenance is concerned. I take it that the Finance Minister will agree with me if I submit that on natural partition after the death of a person, all the equities, shall have to be settled and will have to be gone into.

Mr. Deputy-Speaker: If there is a widow or any other member of the family seeking for maintenance that charge is not going to be taken.

Shri C. D. Deshmukh: There is nothing in the language to contradict that.

Pandit Thakur Das Bhargava: I am very glad the Finance Minister has cleared the point. All the members of the family, all those who are generally entitled at the time of partition to a share will have their share according to the *Mitakshara* Hindu law. If that is so, how will this property be treated as having belonged or as belonging to one single person? If the property belongs to a single person, then we know the rules of the inheritance law. His sons will get it; his widow will get it; and so on. But if the entire property belongs to a joint Hindu family, then other equities will have to be settled. So, these words—

> "the provisions of this Act...... shall apply as they would have applied if the whole of the joint family property had belonged to the deceased."

will put us into a great confusion and will not allow a proper partition to be effected between the members of a joint Hindu family. My submission is that while doing this, while having a reference to *Mitakshara* and all that, we are putting our hands into a hornet's nest, and I do not know how many complications will arise, and how all this will work.

I am submitting that it is a mistake to make any encroachment on the personal law of any person and at the same time fit it into a State conformable to this duty. This joint Hindu family—as I said in this House on another occasion—was not meant to be an economic unit of taxation. It was an institution of social value; a social entity. It has meaning only in those respects. It was not meant for any other purpose. It was not meant for the purpose of taxation. Therefore, the difficulty will arise on every death as to how the equities are to be settled. Suppose a man has got four sons. Some of the daughters and sons of one of them are not married at the time of settlement. The person whose sons and daughters have not been married is granted a better share according to the Hindu law as opposed to other sons whose sons and daughters have been married. Suppose the son of one of the persons goes to England at the expense of the joint family, and the sons of the other persons do not go to England at the expense of the joint family, then all these equities are settled at the time of the partition.

Shri Gadgil *nodded dissent.*

Pandit Thakur Das Bhargava: My hon. friend is nodding his head in dissent. I do not know what he means. I do not know whether he has seen partition in a Hindu family.

Shri C. D. Pande: He has not seen.

Mr. Deputy-Speaker: The words "so far as may be" are there. Gifts etc., to whomsoever they may have been made, will be covered by that. Is that not an exception in regard to the alienations and dispositions referred to by the hon. Member?

Pandit Thakur Das Bhargava: So far as the question of alienations and dispositions is concerned, I am coming to it. I will deal with that question specifically, but supposing there are no gifts, no settlement, and no objectionable transactions, then what happens. I have given you an instance. In an ordinary family, if one of the coparceners has been benefited to a greater degree, at the time of partition the equities are settled and those who have not taken full advantage of the finances of the family are given something more by way of making up for the advantages which would have accrued to them if there had been an equivalent use of the finances of the family by all. That aspect of the case must be gone into.

For instance, a person has four sons. Three are married and the fourth one is not married. At the time of marriage, Rs. 50 thousand are spent in each case. In that event, in order to equalise the share, Rs. 50 thousand will have to be allowed to him at the time of partition. I do not know how all these questions will be settled under this provision. It is a most difficult thing. Therefore, I am submitting that if you say that the property shall be deemed to belong to the deceased, it will be very invidious; it will be very wrong.

Again, coming to the question which you were pleased to ask Members to solve, my submission is this. We have already passed certain provisions in this Bill. According to those provisions, we know that certain gifts are not good unless a particular time has elapsed. They will be treated as not having been made if they do not satisfy that condition. So, in regard to gifts there is no difficulty. Even if we say that in so far as these provisions go, this property shall be regarded as joint family property, these provisions that we have passed will present no difficulty whatever. Since we have already indicated that certain provisions we have made will have to be satisfied, practically there will be no difficulty whatever even if we did not have a section of this kind, whereas if we keep this section, first of all, as regards the question of valuation, it will be utilised adversely for the family. Since the Finance Minister has made the position clear, I take

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it that he will see that the words are so put that an adverse kind of interpretation will not be put upon them in any court. I take it that he will see to that, but even supposing the wording is set right, my question is: what is the difficulty even if these words were to be omitted? We have already passed the relevant provisions and what is the use of repeating them here? Even without repeating them, they will be applicable, since we have already passed them, and whether we put these words here or not, they will be applicable *ipso facto*. So, I submit that we need not repeat them here. Suppose this section does not exist: even then there will be no difficulty. If this had been considered so indispensable, the Select Committee must have observed that it ought to be introduced in the Bill. Since they have not done so, I consider that it is entirely wrong to suggest that such a provision is indispensable. If this section does not exist, all the provisions we have already passed on this subject will be applicable and the thing will remain as it is. According to me, therefore, this sub-clause (5), if it is allowed to be retained, may be productive of various bad results and may give rise to many complications. It may be productive of much litigation also. Therefore, so far as this provision is concerned, if the Finance Minister is very anxious to have it, he can have a provision somewhat like this, that is to say, "for the purpose of settling the share, the property shall be treated as joint family property". To that extent, there is no harm. But further than that, if you say that the property would be deemed to "belong to the deceased", it would create more confusion than we seek to avoid.

Pandit K. C. Sharma: Mr. Deputy-Speaker, my respectful submission is that the first sub-clause in this new Clause 37-A serves the purpose which the Finance Minister has in mind, so far as the revenue is concerned. No doubt, the share of the deceased would be taxed. The question is how the share of the deceased would be found out. Under the ordinary Hindu law—I am referring to the *Mitakshara* system—the corpus of the property is there; the members of the coparcenary are there; and certain provisions are to be made for widow or unmarried daughter or adopted son—whatever the existing circumstances may demand. Under the *Mitakshara* law it would not be difficult to ascertain the share of the deceased. That being the position and the corpus of the joint Hindu family being there, the number of members of the family being known and the other consequential difficulties being known, there is absolutely no difficulty in finding out the share of the deceased. Therefore, I consider that this sub-clause (5) is entirely unnecessary, superfluous and bad in logic. It is bad in logic, because, let us assume that there are four members of the coparcenary—A, B, C and D—and all of them possess Rs. 20 thousand. The logic of the Finance Minister is that these Rs. 20 thousand should be taken as the property of A, the deceased, and should be divided by four to find out the share of A. Where is the logic or sense in this? I do not at all understand the necessity for this sub-clause (5). It will only create unnecessary difficulties. Therefore, I submit that sub-clause (a) as it exists is quite adequate to meet the purposes of taxation, and the division can take place according to the provisions of the *Mitakshara* system of the Hindu law and the addition of this sub-clause (5) is entirely unnecessary and superfluous.

Shri C. D. Deshmukh: Mr. Deputy-Speaker, I can only say that in spite of my trying to explain the main purpose of this, amendment, hon Members have not yet realised what the object of this amendment is. Had I not brought it forward, all this matter would have fallen to be determined by means of rules, executive instruction and general administrative guidance.

Pandit K. C. Sharma: Why not Mitakshara law?

Shri C. D. Deshmukh: Even the application of the Mitakshara law would have required a certain amount of guidance, because there is a large penumbra of difficult cases where the Controllers would have had to be told how exactly partitions take place, how exactly the shares of the deceased have to be determined. Now, here, we have tried in (1) and (3) to put down the minimum and that is assuming that a partition takes place. That is an easy instruction to follow, because it still assumes that a partition shall take place with all the incidence that attend such a partition in a Hindu undivided family. Therefore, there is nothing in this that denies the existence of any law or even custom. Maybe in the Punjab there is a different way of partition. I do not know, but that also would be permitted by this. All that I would say is, let us consider as if the property is being partitioned. Whatever the claims are whatever the equities are, they must all be taken into account, because there is nothing against them here.

Then, the hon. Member Shri Tek Chand was worried about children in the womb. I admit that if you were asked to make a guess once and for all, of course one would have to in how many cases there would be still-births, in how many cases girls would be born, not boys, in how many cases there will be twins, and even there how many boys and how many girls,—whether both will be boys or both will be girls then there are triplets, quadruplets and quintuplets. Certainly it would have been a very difficult exercise in permutation and combination. Fortunately, in Hindu law, there is a remedy provided. Here is Mulla's Hindu Law Section 309. It says:

> "A son, who was in his mother's womb at the time of partition, is entitled to a share though born after partition, as if he was in existence at the time of partition. If no share is reserved for him at the time of partition, he is entitled to have the partition re-opened and share allotted to him."

Mr. Deputy-Speaker: There will be naturally some time elapsing.

Shri C. D. Deshmukh: Six months are allowed in the first place to the accountable person to give an account, and all these things take place within nine months.

Pandit K. C. Sharma: You know that the period of legitimacy is 280 days under Evidence Act.

Shri C. D. Deshmukh: I say that in all normal cases of assessment, not normal cases of the other kind, in all these normal cases, it should be possible to find out how exactly the property stands and to arrive at what is the share of the deceased. That is the question which we have to answer.

Now, if I had been asked which of these clauses I am prepared to surrender, I should have said clauses (1) and (3), I might take the opportunity, here of saying that I appreciate your ruling in regard to clauses (3) and (4) and I was thinking I must withdraw them, but at second thought, I thought it was going too far.

Mr. Deputy-Speaker: There, I anticipated the hon. Minister.

Shri C. D. Deshmukh: I am content with your ruling. I say the only point of importance in this amendment is this: because it does make a difference to the corpus of the property. And whatever circumlocution......

Mr. Deputy-Speaker: Could there not be a change? If the *karta* of the family makes a disposition and dies, the other provision, two years, etc., would apply. Naturally, there would be a doubt raised as to whether it is *karta* who dies or some other member dies and whether

[Mr. Deputy-Speaker]

in that case these provisions relating to two years will apply. It is only for that purpose that this sub-clause (5) is imposed.

Shri C. D. Deshmukh: It is to remove the doubt in regard to these matters.

Mr. Deputy-Speaker: Why not it be more specific?

Shri C. D. Deshmukh: The matter is still open, till I receive any amendment, except, Sir. what you have suggested that in order to arrive at the share or, if you like, in order to arrive at the principal share— because that is the word used in clause (1) it would have been allotted to the deceased.

Mr. Deputy-Speaker: In order to arrive at the principal value of the deceased's property in the joint family.

Shri C. D. Deshmukh: No I would say first in order to arrive at the principal value of the share which would have been allotted to the deceased at a partition taking place immediately before his death for the purposes of sub-clauses (1) and (3), and in the course of estimating the prinicipal value of the joint family. I think the meaning is clear enough.

Shri Tek Chand: Unless it is clothed in a language, precise and definite......

Mr. Deputy-Speaker: If there is a question of difficulty on account of language only, it could be modified.

Pandit Thakur Das Bhargava: This chapter deals with "Value Chargeable." It deals with the value of the share for the purposes of taxation. It is useless. If you want to arrive at a share....

Shri C. D. Deshmukh: My only answer is you cannot arrive at what the value of the share is.

Pandit Thakur Das Bhargava: You do not want to arrive at the value. For purposes of value you have enacted other sections, so that you may have an amendment for arriving at a share.

Shri C. D. Deshmukh: That really means, Sir, that it might have been better had this been brought in under clause 7 instead of under this heading. I think it might have been preferable. But now that we have passed clause 7, it is here, but in view of all these observations made, I do not think there would be any possibility of mis-understanding.

Pandit Thakur Das Bhargava: The hon. Finance Minister can move another amendment and put it as 7(A) in view of the fact that the difficulty has been felt now. There is no obstacle to enacting 7(A) or something like that.

Mr. Deputy-Speaker: The position is—I was more concerned with the language.

Pandit K. C. Sharma: Now that we have discussed the whole thing and the Finance Minister agrees that the language cannot be improved, there is no more need for discussion, except the faulty language. It must be modified so as to be understandable by all. That can be done tomorrow by moving some amendments.

The language is likely to be confused and would create misapprehension.

Mr. Deputy-Speaker: I would readily consent to it, but for the fact that there is no amendment by any hon. Member. Again and again, we are falling back on the Finance Minister for amendments and amendments.

Shri C. D. Deshumkh: To me, Sir, it is crystal clear.

Mr. Deputy-Speaker: Let us go through this. The hon. Minister has cleared it by reading Mulla's Hindu Law. There is no intention, on his part to interfere with the normal course of a partition, and the rules of the Hindu Law relating to partition will be observed. Now, the only safeguard is the provision relating to gifts, etc., within a particular period. This ought not to be lost sight of. That is the principal object. After all the statements have been made on the floor of the House and all the objections raised, I do not think any more objection can be possible. Of course, it is for a court of law to interpret the language, but I do not think it is in juxtaposition to the intention behind the clause. A second list or a third list is not going to improve the situation.

Now, the question is:

Pandit Thakur Das Bhargava: May I submit that the clauses may be put separately to the House.

Mr. Deputy-Speaker: Yes. The question is:

"That sub-clause (1) of new clause 37A stand part of the Bill."

The motion was adopted.

Mr. Deputy-Speaker: Some objection prevails to sub-clauses 2 and 3.... In the case of Marumakattayam, this difficulty does not arise. How is it that the provision is not there? Clause 5 is applicable to both.

Now, the question is that sub-clause (3) of clause 37A, as originally framed......

Shri C. D. Deshmukh: Sub-clause (2) has not been put.

Mr. Deputy-Speaker: I have not re-numbered it yet. I will put it now.

The question is:

"That sub-clause (3) of clause 37A stand part of the Bill."

The motion was adopted.

6 P.M.

Mr. Deputy-Speaker: Now I will put sub-clause (5).

Shri Tek Chand: Before you call upon us to vote on it, would it not be better if sub-clause (5) is held over till tomorrow when an appropriate amendment is thought of either by the Finance Minister or by other members? There is no doubt as to his intention, but intention unless clothed in appropriate language has no security.

Mr. Deputy-Speaker: Will it do any good: I leave it to the hon. the Finance Minister.

Shri C. D. Deshmukh: Honestly, I don't think it is necessary. Had I felt that there was something to which we could apply our mind further. I would have accepted that responsibility, but I cannot see any way of improving it, except as you said by transposing lines.

Shri Tek Chand: But that may have very important consequences.

Mr. Deputy-Speaker: But the hon. Member has not been able to place anything concrete by way of amendment before the House—even two lines, which would set us thinking. In that case I would have adjourned consideration of this clause. Only an appeal is being made that this may stand over.

The question is:

"That sub-clause (5) of the new Clause 37A stand part of the Bill."

The motion was adopted.

Mr. Deputy-Speaker: Now I have already given my ruling regarding sub-clauses (2) and (4) and the hon. Minister himself is prepared to withdraw them. So, they need not be put to the House: they will not form part of Clause 37A.

The question is:

"That sub-clauses (1), (3) and (5) of Clause 37A, now renumbered as (1), (2) and (3) stand part of the Bill."

The motion was adopted.

New Clause 37A as amended was added to the Bill.

Clause 60—(*Contd.*)

Shri S. S. More: Now, that we have disposed of Clause 37A, let us disperse.

Mr. Deputy-Speaker: Let us sit till seven o'clock.

Shri Tulsidas: My amendments No. 175, 177 and 178 were moved in the morning. But I find that No. 178 is to clause 61.

Mr. Deputy-Speaker: So, clause 60 and amendments No. 175 and 177 are before the House for discussion.

Shri Tulsidas: There is a new clause introduced by the Select Committee for rectification of mistakes relating to valuation of estate duty.

Shri C. D. Deshmukh: It is not a new clause: 60 was there.

Mr. Deputy-Speaker: I would like to make an announcement to the House that on the 17th September 1953 the whole day has been set apart for debate on foreign affairs.

Shri N. C. Chatterjee: Has any decision been arrived at with regard to my motion regarding Dr. Syama Prasad Mookerjee's death?

Mr. Deputy-Speaker: I shall give it in the Bulletin.

Shri Tulsidas: Sir, the provision in clause 60 is not comprehensive enough. For instance, it may not be possible to obtain refund in all cases of over-payment of duty for any reason whatsoever. The clause does not provide for refund being granted where overpayment of duty has occurred on account of aggregation of amounts mentioned in Section 33(2), which, however, are known to be latterly not legitimately aggregable. This clause should be modified on the lines of Section 45 of the Indian Income-tax Act, so that in all cases where refund is due it might be made. That is the purpose of my amendment. I had raised this issue in connection with clause 33(2), but I was told that the appropriate place was this clause. I hope my amendment will be acceptable to the hon. the Finance Minister.

Shri M. C. Shah: If a property which was not chargeable was charged there cannot be a refund; there can only be an appeal and an appeal has been provided for. The amendments of the hon. member make the position very wide and we cannot accept them.

[PANDIT THAKUR DAS BHARGAVA *in the Chair.*]

Mr. Chairman: The question is:

(1) In page 28, line 26, *after* "property" *insert* "or of the inclusion of any property on which estate duty is not properly chargeable under this Act".

The motion was negatived.

Mr. Chairman: The question is:

In page 28, *for* lines 39 to 43, *substitute*:

> "(2) In case the property of the deceased is already divided amongst the heirs, the additional duty shall be payable proportionately by all persons who have inherited the property passing on the death of the deceased."

The motion was negatived.

Mr. Chairman: The question is:

> "That clause 60, stand part of the Bill."

The motion was adopted.

Clause 60 was added to the Bill.

Clause 61.—(*Appeal against determination by Controller*).

Shri M. C. Shah: The question of appellate tribunal has been discussed threadbare and the House has taken a decision.

Mr. Chairman: The broad question as to whether there should be an appellate tribunal or the Central Board of Revenue should be the deciding authority has been discussed. But there are other sub-clauses which hon. members might choose to amend. I take it that hon. members will not in their discussion refer to the argument that an appellate tribunal would be preferable to the Central Board of Revenue, because that has already been decided.

Shri Mulchand Dube (Farrukhabad Distt.—North): We discussed clause 4 only, of which the heading is 'Estate Duty Authorities'. If the appeal is to be made to any authority other than the estate duty authorities, that question is not covered by section 4.

Mr. Chairman: The point is that when that section was taken up, it was distinctly indicated to the House that it involved the constitution of an Appellate Tribunal, which was to be established, and in view of that decision, we should not raise the question again. The House has taken up a position and having considered the thing already, it is not open now to reconsider it.

Shri Mulchand Dube: There are amendments in which it is said that the appeal should lie to the District Judge and so on. We should not be bound now for the simple fact that the Appellate Tribunal has not been established. Now the question before the House is whether the Appellate Tribunal should be established as the County Council or District Council in England.

Shri M. C. Shah: The County Council was referred to during the earlier discussion and appeals to the District Courts or Councils were also discussed.

Shri Tek Chand: Incidentally, what ought to be the Appellate Tribunal was no doubt discussed. Clause 4 being a definition clause, the question did not arise whether the High Court should be defined. Therefore, if the question is to be properly discussed now, the debate as to the desirability of the forum of appeal should not be constructed.

Mr. Chairman: It was unfortunate that I was not present in the House at that time....

Shri C. D. Deshmukh: I would draw your attention to amendment 12 which was moved by Shri G. D. Somani or Shri Tulsidas. If you look at that amendment, that will give you some idea of the subject matter of discussion then.

Shri Tek Chand: Amendments 296 and 297 moved by Shrimati Sushama Sen say that the Appellate Tribunal should consist of "judges, or High Court and Supreme Court". Therefore, that matter was not debated.

Mr. Chairman: It appears from all these amendments that the independent appellate tribunal should consist of District Judges or High Court and Supreme Court, but the principal whether it ought to be the Central Board of Revenue or an independent judicial body to whom the appeal should be made did come under discussion. I therefore think that the House will not be well advised to reopen the whole question. I would request hon. Members not to cover the same ground over again in their speeches and concentrate their attention on the different sub-clauses with which we are concerned here.

Shri Pataskar: I was then probably in the Chair. So far as my memory goes, the discussion on clause 4 took place and then there was a suggestion that there should be an appellate tribunal and indirectly it was discussed that the appellate tribunal should consist of District Judges, or High Court or Supreme Court, but so far as I can see, clause 61 is quite different. Clause 61 is not concerned with the authorities under the Estate Duty Act which are covered under Clause 4, but it (clause 61) makes provision for an appeal against certain decisions of the Estate Duty Authorities, therefore this is given to the Board, which again is another

[Shri Pataskar]

Estate Duty Authority. It was probably a discussion only regarding the appellate tribunal, but it was never discussed as to whether the appeal should be brought to the High Court or the Supreme Court. Of course, the appellate tribunal was discussed thoroughly.

Shri M. C. Shah: The appeal should be to the C.B.R. or to the independent tribunal when constituted.

Mr. Chairman: So far as the principal question is concerned, the choice made between the C.B.R. and an independent tribunal was discussed. I would therefore ask the hon. members to concentrate their attention on the other sub-clauses.

Shri Tek Chand: If the appellate tribunal should consist of a High Court Judge and a Member of the C.B.R., a debate will be necessary. A tribunal consisting of one Member with the qualifications of a High Court Judge and another Member who is a representative of the C.B.R. will be a vital matter as the entire liberty of a citizen is centred on the constitution of the appellate forum.

Mr. Chairman: I do not doubt for a moment that this question is very important. All the same, if we have come to a decision on the question of an independent judicial tribunal, I think there is no point in going over the same ground.

Pandit K. C. Sharma: That question has not arisen at all.

Mr. Chairman: This question was already taken up in discussion and there may not have been a decision on this point in so many words according to our records. At the same time, it cannot be denied that the crux of the question was whether the appellate authority should consist of Estate duty authorities or some independent body. That was gone into. That is the crux of the case. I therefore submit for the consideration of the House that if at this stage, we enter into the same question, would it not be more or less a waste of time. We are pressed for time.

Some Hon. Members: We are ahead of the schedule.

Mr. Chairman: I should think that if we again repeat the same arguments, the same conclusions will follow.

Shri Gadgil: If I remember the proceedings correctly, the question was raised whether the whole question should be gone into in relation to clause 4 or it should be taken up when clause 61 would come up for discussion. It was the unanimous desire of the House that it should be taken up in relation to clause 4. Mr. Tulsidas was requested to move his amendment No. 12 which sought to add new clauses 4A and 4B. Every aspect of the question was discussed and I think the decision has already been recorded by the House.

Mr. Chairman: The real question is whether we have arrived at a certain conclusion. A discussion which is inconsistent with that conclusion cannot be gone into again. That I understand. So far as I know, no decision was taken. Arguments were heard. We concluded that there should be Estate duty authorities only. Incidentally we also accepted the view that the Estate duty authorities will hear appeals also. At the same time, unless a particular definite decision is taken—there was no proposal regarding District Judge or Supreme Court Judge—I do not think I will be within my rights if I rule that the question cannot be discussed at all. No decision was reached. Our present decision cannot be inconsistent with the previous decision. But, so far as discussion is concerned, it is the choice of the Members. They can certainly refer. I am only advising the hon. Members not to concentrate on that question and take up the time of the House over the same point once again.

Now, I will come to the amendments.

Shri Tulsidas: I would request that amendment No. 178 may be taken with clause 61.

Mr. Chairman: It will be taken as moved.

Shri Tulsidas: I have moved in the morning that—

In page 28, lines 47 and 48,

> *for* "or objecting to any penalty levied by the Controller under section 54" *substitute* "or objecting to any order, determination, decision or levy of penalty by the Controller under any section of this Act."

Shri S. C. Singhal (Aligarh Distt.): I am not moving my amendment.

Shri N. C. Chatterjee: I cannot possibly move my amendment No. 180. We have discussed this matter and that has been finished. It is barred by *res judicata.*

Shri S. V. Ramaswamy: I beg to move:

In page 28, line 49,

> *for* "Board" *substitute* "Appellate Estate Duty Tribunal, which shall be presided over by a judicial Officer not less than the rank of a District and Sessions Judge".

Shri Banerjee: I beg to move:

In page 28, line 49,

> *for* "Board" *substitute* "Tribunal consisting of three Judges".

Shrimati Sushama Sen (Bhagalpur South): I beg to move:

In page 28, line 49,

> *for* "Board" *substitute* "Independent Appellate Tribunal consisting of three judges, or High Court and Supreme Court".

Shri N. C. Chatterjee: I cannot move my amendments. 330, 333.

Shri S. V. Ramaswamy: I beg to move:

In page 28, line 49 and wherever it occurs in the clause,

> *for* "Board" *substitute* "Appellate Estate Duty Tribunal".

Shri Mulchand Dube: I beg to move:

In page 28, line 49, and wherever it occurs in the Bill, hereafter *for* "Board" *substitute* "District Judge".

Shri Raghavachari: I cannot move my amendments because they are barred.

Shri Banerjee: I beg to move:

In page 29, lines 1 to 2,

> *for* "Board" wherever it occurs, *substitute* "Tribunal".

Shrimati Sushama Sen: I beg to move:

(1) In page 29, line 1,

> *for* "Board" *substitute* "Independent Appellate Tribunal consisting of three judges, or High Court and Supreme Court".

(2) In page 29, line 4,

> *for* "Board" *substitute* "Independent Appellate Tribunal consisting of three judges, or High Court and Supreme Court".

Shri Raghavachari: I wish to move amendment No. 396. I beg to move:

In page 29, line 17, *for* "borne by" *substitute* "paid to".

Shri Tulsidas: I am not moving amendment No. 184 as it is barred. I cannot move amendment No. 185 also.

Shri N. C. Chatterjee: I beg to move:

In page 29, (i) *after* line 21, *insert*:

> "(5) The Board of Valuers may in disposing of any case referred to it hold or cause to be

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held such enquiry as it thinks fit and after giving the Appellant and the Controller an opportunity of being heard pass such orders thereon as it thinks fit and shall forward a copy of such order to the Appellant and the Controller"; and

(ii) in line 22, *for* "(5)" *substitute* "(6)".

Shri Tulsidas: I have only to refer to the amendment No. 178. This is meant only to clarify the position. The amendment reads as follows:

In page 28, lines 47 and 48,

for "or objecting to any penalty levied by the Controller under section 54" *substitute* "or objecting to any order, determination, decision or levy of penalty by the Controller under any section of this Act".

This line is marked because these words were inserted in the Select Committee. Appeals should be not only against the question of penalty levied, but it should be against any order, determination, decision or levy of penalty by the Controller under any section of the Act. That is all I want to say. These appeals should not be meant only against the penalty, but should cover all these things and so I am adding these words. I am sure the hon. Finance Minister will accept my amendment.

Mr. Chairman: He can speak on his other amendments also if he likes.

Shri Tulsidas: I have no other amendment. I did not move many amendments. I have moved only amendment No. 178.

Shri Banerjee: What strikes me is this. The matter was discussed thoroughly. But, there are certain apprehensions that when an appeal is going to be made against the decision of the Controller, it must be to some such person in whom the public has absolute confidence and not to the Board. Of course, this question was discussed at length. But, when the people want it, let the appeals lie to some independent tribunal and not to the Board, who will decide actually. Because, the Controller has got ample power and opportunity to decide and go into every aspect of the matter concerned with the assessment of the estate duty. My submission is this. At least to remove the apprehension from the mind of the people and assure that they will get fair and impartial justice, let the appeals be made to some Judges, some independent tribunal, no matter whether a District Judge or High Court Judge, to some such persons who are free and who are not in any way guided by the Board of Revenue. That is all I have to submit.

Shrimati Sushama Sen: My amendment 296 reads:

In page 29, line 1,

for "Board" *substitute* "Independent Appellate Tribunal consisting of three Judges, or High Court and Supreme Court".

As I said in connection with clause 4, I think the Public would have more confidence and the Government would be above criticism. If the appeal lies to a Member of the Board, after all, he belongs to the Government itself. So, I think it is absolutely necessary that appeals should lie to an Independent tribunal. I beg to submit that the tribunal should consist of three Judges of the High Court and Supreme Court. My other amendment is also just the same and I need not move it again, that is amendment No. 297 which reads as follows:

In page 29, line 4,

for "Board" *substitute* "Independent Appellate Tribunal consisting of three Judges, or High Court and Supreme Court".

This is all that I would like to say, that it is absolutely necessary that there should be an independent tribunal.

Shri Raghavachari: Mine is a very small amendment. I do not wish to labour the point. I only wish to invite the attention of the Finance Minister to page VI of the Select Committee report.

> "It has also been provided that where the person accountable is successful in his reference, costs should be in the discretion of the Board."

That is on Clause 61 of the notes. But the language of the sub-clause (4) from line 15 onwards is:

> "Provided that where the appellant has been wholly or partially successful in any reference made at his instance, the extent to which costs should be borne by the appellant shall be at the discretion of the Board."

What is decided at the other place is that the cost must be payable to him. It will be at the discretion of the Board when the man succeeds. But what is here provided is what cost he will bear. I say, for the words "borne by" substitute "paid to". That is a verbal alteration and within the meaning of the decision of the Select Committee itself. It must be a mistake in the drafting. Of course, I did not notice it at that time. Otherwise, I would have brought it to notice even earlier.

Shri Gadgil: There is nothing wrong there. The costs are borne by the appellant. What share is to be borne by him will be decided. It means, in other words, the rest of it will be paid by somebody else.

Shri Raghavachari: This kind of interpretation can be put, but what we decided, or rather what has been said to be decided, is that when a man is successful in a reference, his costs should be at the discretion of the Board. Certainly, the Board may reject, may pay him no cost. It is for the Board to determine what cost he should bear. But we expect in common sense that it should be what cost he will get. The rest no doubt he will bear. So "borne by" is not correct. It has to be "paid to".

Shri Tek Chand: In supporting . . . Have I your permission?

Mr. Chairman: I am calling Mr. Chatterjee.

Shri N. C. Chatterjee: I am, first of all, supporting Amendment No. 178,—may I have the attention of the Finance Minister?—and I earnestly appeal to the hon. Members to accept that.

Would you kindly see, Sir, Clause 61 for a minute? I raised this point at an earlier stage as to the scope of the appeal on the question of the appellate Tribunal, but the Deputy-Speaker ruled that I had made out a case for enlarging the scope of the appeal and that it should be discussed along with Clause 61. Would you, Sir, kindly look at Clause 61?

Mr. Chairman: I have seen it.

Shri N. C. Chatterjee: Any person objecting to the valuation made or the estate duty determined by the Controller can appeal within 90 days to the Board. Secondly, any person denying his liability to account for the duty payable in respect of any property can appeal to the Board. Thirdly, any person objecting to any penalty levied by the Controller under section 54 can appeal to the Board.

Now, Sir, I submit this is not fair. You are clothing the Controller with very, very wide powers which may create havoc unless you give some appeal to the Board against certain determinations which may have very far-reaching consequences. Take for instance, Clause 9 which we have already passed: "Gifts made within a certain period before death". You know, Sir, a gift must be made *bona fide* two years or more before the death of the deceased. Otherwise, although the property is gifted, the question will be raised whether it is *bona fide*. Assuming you make a gift to the University of Delhi or the University of Calcutta or Bombay, property worth Rs. 2 lakhs and the property has absolutely passed to the University, yet the question will be

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raised whether it is *bona fide*. Supposing you give it to some Mission, some charitable endowment, the question would be whether it is a gift made for public charitable purposes. Now, who will determine that?—the Controller. Just look at Clause 61. Will that be covered by Clause 61? Supposing you make a valid gift and you maintain that it is a perfectly *bona fide* gift and the donee has taken possession. The Controller says: "No, I am not satisfied this is a *bona fide* gift". He makes the estate or the legal representatives assessable to duty in respect of Rs. 2 lakhs. It practically nullifies that gift. Can he come under this?

It is not a question of valuation. Valuation is all right. I have parted with Rs. 2 lakhs, say in cash, or in treasury bonds, or in Government promissory notes, or by cheque drawn on my banker and it was passed. It is not a question of objecting to the valuation. I am objecting to the determination or the order by the Controller that this is not a *bona fide* gift.

You know, Sir, very interesting points were raised by Mr. Gadgil when we were discussing, and the hon. Finance Minister agreed with our interpretation and the English law on the subject, but these are debatable questions, and they will be decided by the Controller. Now, he decides it is not a *bona fide* gift. What can I do? It is only fair and just that I should be given a chance of appealing to the Board. There is no independent Tribunal, but do not shut up an appeal against that order.

Then, kindly look at Clause 10: "Gifts whenever made where donor not entirely excluded". We had been raising a lot of discussion on this point. You know, Sir, that a gift will not be valid for the purpose of getting the exemption from estate duty unless there is entire exclusion of the donor and there is complete assumption, immediate assumption, of both bona fide possession and enjoyment by the donee. The donor says, "I have made a gift to my daughter of a property and she has been living in it, but I had also been living there occasionally". Assuming that the Controller says: "I find there has been no entire exclusion of the donor", then there is no question of valuation, the valuation is all right, but I am submitting it is only fair that in such a case when you are giving such wide power to the Controller to determine—he is the person to determine, he is the functionary to determine—whether there has been entire exclusion of the donor; and you know, Sir, how complicated the law is on the subject even in England, whether a father, if he makes a gift of a dwelling house to the daughter...

Mr. Chairman: May I just put one question to the hon. Member? The words are "any person objecting to the valuation made". Now, supposing the Controller includes a certain property, then valuation becomes important. Can a person not go to the Central Board of Revenue and say: "This property should have been excluded as it was a gift, and therefore the valuation is defective."

Shri N. C. Chatterjee: I submit that the wording.........

Mr. Chairman: Is not clear?

Shri N. C. Chatterjee:......is not clear. I quite admit that your mind is working on the lines that there should be an appeal against such a kind of order or determination. I am only submitting that it should be made clear. Otherwise, the appeal is against the valuation and not a question of quantum, a question of assessment of the quantum of the vlaue of the property or the estate.

Shri Gadgil: Determination of the estate duty covers all this.

Mr. Chairman: The word 'quantum' is not there, but still it can be argued......

Shri N. C. Chatterjee: What I am submitting is that Mr. Tulsidas wants to introduce the words 'any order, determination or decision or levy of penalty by the Controller'. I submit the intention of the hon. Finance Minister—I take it—is not to exclude appeals in cases where there is a determination that there is no gift under clause 9 or clause 10. Take for instance, the horrible clause, clause 11 relating to limited interest disposed of within a certain period before death. You know it will give you a headache, if you go through it. And the English judges have differed so many times. In the great St. Aubyn's case, they sat for many years, and the House of Lords had reversed it. These are very difficult questions, namely, settlement with reservation, joint investment policies kept by the company etc.

Shri C. D. Deshmukh: I concede all these points, but I would like to ask the hon. Member when he develops his argument whether this language will not be wider than he intends; Now the words 'object to any order, determination, decision...' are in the air, so to speak. I am quite prepared to agree with the hon. member that the matters that he has mentioned must be subjects of appeal, and if they do not come under these three categories, accountability, determination or valuation, certainly we ought to do something about it. What I am anxious to avoid is dilatory tactics whereby any kind of order can be objected to, and the case may be postponed. We are both agreed in principle as to what the clause should provide for. What we are concerned with is the language of this clause. I am only asking the hon. Member to consider if these words will not be too wide. I am prepared to accept any kind of clarification of this clause 61, if I am assured that this does not let in any kind of dilatory tactics.

Shri Gadgil: Even if adjournment is refused that also will be appealable.

Mr. Chairman: The word 'order' may be too wide.

Shri N. C. Chatterjee: It was not my object.

Shri C. D. Deshmukh: I know it.

Shri N. C. Chatterjee: I hope the hon. Finance Minister will appreciate that I have tried to put forward constructive suggestions and I have not spoken with a view to obstructing the proceedings. What I am pointing out is that on these matters, where there will be a determination, it will be practically a judgment, as you understand the term, which will impose liability or determine some question of principles on which an arithmetical calculation of the quantum of the duty will follow. All these matters should be certainly made appealable. Otherwise it may be said that you are shutting out all evidence. It is not a matter of valuation. We are not denying the liability to account either. I am not denying the liability to account, because I am an executor. You know, Sir, the scope of persons liable to account is very much wide and enlarged in this Bill. It is not a question of difference in principle, but one of language.

Shri S. S. More: Supposing the word 'order' is deleted, it will be all right.

Shri N. C. Chatterjee: Will you also kindly consider another thing? I am appealing to the hon. Finance Minister to consider this language. Unless a certificate is given, you cannot get a discharge, under clause 73, and certain other clauses. Under clause 55, there is provision for executor to specify all chargeable property with affidavit of valuation. Again there is a reference to the certificate in clause 58 relating to duty to be paid or security for payment furnished on delivery of account and certificate to be granted thereupon. Supposing there is a charge hanging on the estate, I am put to a difficult position. Supposing the Controller refuses to give a certificate, may be wrongly, and I go to the Board and

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say that this has not been done properly, that it had not been withheld properly, and therefore I say, give me a certificate—there can be complicated cases, which may last for many many years, and may take a long long time; in the meantime, we may want to dispose of certain portions of the property, and we may require a discharge certificate; that may be withheld, in that case, I should have power to appeal to the Board against the verdict of the Controller. I take it that the intention of the Government is not to shut out appeal in such cases. There is possibly no difference really of principle. The question is how we can enlarge the scope of appealability, without making it lead to more vexatious proceedings. You can strike out the word 'order', and retain the rest. That would really mean adjudication.

Mr. Chairman: Any decisions on any matter not affecting the merits will all the same be a decision. The question is that we should provide for appeals, and see that these provisions are not abused at the same time.

Shri N. C. Chatterjee: That is quite correct. The Board can accept it or summarily reject the appeal. But anyhow, it should get the power. There is no question, I take it, of saying that it should not be liable to appeal. You know, when the Board is the appellate authority, surely the chances of abuse will be very much less. I quite concede the point that it should not be so widened, as to let in frivolous appeals on mere grounds of adjournment or something like that. If there is any determination or decision, it really means adjudication either on liability or on any important matter of principle on which assessment is to follow to the detriment of the taxpayer.

Shri S. S. More: I think determination and decision would cover it. Under clause 9, you will have to determine whether it is a *bona fide* gift or not. So some decision will have to be given. When I cannot have a discharge certificate, it is a small matter of judgment. Under clause 15 again, there is a judgment to be given. We may therefore put the words 'determination or decision or levy of penalty'.

Shri Tek Chand: There are three matters that arise under clause 61, which require a close scrutiny. One of these matters has been alluded to by my hon. friend Mr. Chatterjee.

The important principle which should be borne in mind is that the first court ought not to be the last court on any matter of controversy. My point is, don't confer powers upon your Controller, which are not reviewable on appeal by the Board which acts as the appellate tribunal. Whatever it may be, your Controller should not be able to pass an order which your Central Board of Revenue cannot review or reverse on apeal, whatever the controversy or its nature may be. Please remember that there may be cases where the Controller gives a decision not necessarily against the assessee, but against the Government as well. The hon. Finance Minister was pleased to say a little while ago that his object was to avoid dilatory tactics. That object is surely unexceptionable. Take for instance, a case where for purposes of disposing of a matter in dispute, the party says, I want to lead the evidence of Messrs. X, Y and Z, for some reasons they cannot come either because they have missed the train or they are sick, or they are otherwise dodging. But if he shuts out the evidence, then an aggrieved party cannot go up in appeal to the Board successfuly, because he has not placed the material on the record, wherefrom the Central Board of Revenue could legitimately draw a conclusion or an inference, on appeal. Therefore, all that he will be asking in appeal to the CBR will be: 'Kindly remand this case to the Controller with the direction that he should hear my evidence'. Messrs. XYZ are perfectly competent people, but it is unfortunate that owing to a certain fortuitous circumstance they could not attend the court. Therefore, the important thing that you have to see is whether any order is passed by the Controller which can possibly affect the party in an adverse manner, to his detriment. And the various methods and various ways in which a party can suffer, it will be impossible to enumerate. Under those circumstances, the desirable thing will be that the Central Board of Revenue or your appellate authority should be empowered with that jurisdiction whereby if they thought proper, they could reverse the order of the Controller on any point on which there was a controversy. That is point number one.

My second point is the one raised by my hon. friend, Shri Raghavachari, with respect to page 29, line 17. If you will carefully read the language, the language is rather unhappy: '... borne by the appellant shall be at the discretion of the Board'. We do not know who the appellant is likely to be. The appellant may be a citizen; the appellant may be the Government. Assuming that the property has been undervalued, an appeal is open to the Government. The Government can put it before the Central Board of Revenue. The appellant may be the successful party or the respondent may be the successful party. Therefore, when you say whether he succeeds in entirety or the success is partial the cost will be borne by the appellant, that is unthinkable. If he is the successful party, he is entitled to his costs in entirety. If his success is partial, then he is entitled to his costs proportionately—proportionate to his success. But I have never heard of a proposition, except in this proviso, that an appellant may be wholly successful or the appellant may be partially successful, yet he may be called upon to bear the costs. I can understand cases where you may deprive a party of his costs. It may be that the matter is so evenly balanced, it may be that the point is so technical that the party may be successful; and yet be deprived of the costs. But I have never heard of the successful party bearing the burden of the costs of the other. Therefore, the proper course should have been that the determination of the extent to which the successful party should be entitled to his costs should be left to the discretion of the CBR. That is understandable, because then you give them the fullest discretion to distribute the costs evenly, whether the successful party is to be entitled to his costs or not. That the successful party should bear the costs of the respondent is a proposition which is absolutely unthinkable—and that is the proposition which has been incorporated here. Kindly take also into consideration this fact. You have mentioned the word 'appellant'. There is also the other fellow, the respondent. After all, the respondent, if successful, is entitled to his costs. The respondent, if he loses, may be deprived of the costs either partly or in entirety. Therefore, when you are choosing the 'appellant', this proviso of yours is open to two objections. You incorporate a provision whereby the successful party can be called upon to bear the cost of the unsuccessful party. That is inequitable. Then again, where the respondent may be successful and the appellant may be absolutely unsuccessful, you deprive the respondent of his costs—even if he is successful. Therefore, the proper provision is that the Central Board of Revenue may be left with unhampered discretion to distribute costs or to award costs to the successful party in entirety or proportionately or not at all. That is understandable. But that the successful party should bear the cost of the unsuccessful party, a person whom he has defeated, is unthinkable, but it has been provided for here. That is my second point.

My third point is the point raised by Shrimati Sushama Sen in her amendment. The question is, whether you call your appellate tribunal a

[**Shri Tek Chand**]

tribunal', or you call it 'an appellant authority' or you call it the 'appellate board,' names do not matter. The question is: who are the persons—who man the Board and what should be their qualifications? Is there to be among the members constituting the Board somebody possessing the requisite judicial qualifications? My submission is that if that suggestion is not acceptable to the Government, that the appellate body should not be like a judicial body—be that a district court or High Court—will it not be desirable, especially when the legislation is full of complexities, when knotty language has to be unravelled, when it has to be understood and applied, when difficult points of law have to be examined and applied, that at least a High Court Judge or a member of high judicial attainments or possessing the knowledge and qualifications of a High Court Judge should be associated so that at least his wisdom and learning on points of law may be available to the members of the Central Board of Revenue? He may be in a position to guide where the difficult question of interpretation may arise. Here is a *via media,* I suggest. Let it not be exclusively a judicial tribunal, if you are not willing to have it. But let it not be an exclusively financial tribunal. They may be good judges, they may be very efficient men in understanding the financial or fiscal implications, but they may not be competent to the same degree or to the same extent as a qualified High Court Judge.

Then, before resuming my seat, I wish to refer to a recent judgment of a Division Bench of the Calcutta High Court, a judgment given to which two Judges were parties, the hon. Chief Justice Harris and Mr. Justice Banerjee, in the well-known Surajmal case reported in All India Reporter, 1952, Calcutta, at page 656. There Their Lordships deprecated in no uncertain language the tendency of the departmental appeals, and they stigmatised such a tendency as an appeal from Caesar to Caesar. There is one Caesar. He is almighty—the Finance Minister. Then there is an appeal from that Caesar to the same Caesar, though in a different garb. They deprecated it. Will it not be desirable, Sir, that the objection which was considered, which was thought of by as high a judicial authority as the Division Bench of the Calcutta High Court should to a great extent be obviated by at least associating one High Court Judge with the deliberations of that appellate body? That is a *via media*—a half-way house—I suggest and I pray it should be acceptable to the hon. the Finance Minister.

Shri Pataskar: May I put a question?

Shri U. M. Trivedi: May I have a word, Sir.

Mr. Chairman: Yes, Mr. Trivedi.

7 P.M.

Shri U. M. Trivedi: When we were discussing this clause 61, it has already been suggested that we need not discuss......

Shri S. S. More: It is 7 o' clock. We have decided when the Deputy Speaker was in the Chair that we shall sit till about 7. It is exactly 7 now.

Sardar A. S. Saigal (Bilaspur): Let us finish this clause 61.

Shri S. S. More: It will take a lot of time.

Mr. Chairman: Mr. Trivedi is already on his legs. Let him finish.

Shri K. K. Basu: Let us appeal to him to continue his speech tomorrow.

Mr. Chairman: If the House agrees, let Mr. Trivedi finish.

Shri S. S. More: He has got more points, Sir.

Shri U. M. Trivedi: No, I will take only 10 minutes.

Mr. Chairman: I was thinking that the hon. Member is not going to take up as much as 10 minutes. Therefore I called upon him to speak. It is now 7 o' clock. Therefore we adjourn now.

The House then adjourned till a Quarter Past Eight of the Clock on Friday, the 11th September, 1953.